

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ORIGINAL

3 -----X
HOWARD HENRY,

4 Plaintiff,

5 -against- 05 CV 8106

6 WYETH PHARMACEUTICALS, INC., WALTER
7 WARDROP, ANDREW SCHASCHL, and
MICHAEL McDERMOTT,

8 Defendants.

9 -----X
10 June 12, 2006
11 10:10 a.m.

12
13 Videotaped deposition of HOWARD A.
14 HENRY, pursuant to notice, at the offices
15 of Orrick, Herrington & Sutcliffe LLP,
16 666 Fifth Avenue, New York, New York,
17 before Gail F. Schorr, a Certified
18 Shorthand Reporter, Certified Realtime
19 Reporter and Notary Public within and for
20 the State of New York.
21
22
23
24
25



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LegalLink Action Video, Inc.

1

HOWARD A. HENRY

10:31:06 2

type of forum where you provided

10:31:07 3

testimony?

10:31:07 4

A. I can't remember at this

10:31:09 5

time. Not -- nothing -- nothing like

10:31:11 6

this, no, that I can recall.

10:31:13 7

Q. Anything that you can recall

10:31:16 8

where any attorney asked you questions

10:31:19 9

where a court reporter was present?

10:31:21 10

A. Maybe when I was a kid. I

10:31:26 11

really, really would have to be

10:31:28 12

stretching that.

10:31:29 13

Q. Have you ever been a party

10:31:31 14

to a lawsuit?

10:31:32 15

A. Not that I can recall.

10:31:34 16

Maybe like those class action lawsuits

10:31:36 17

that they send you in the mail, but

10:31:38 18

nothing formal like this that I can

10:31:40 19

recall.

10:31:40 20

Q. Have you ever commenced a

10:31:43 21

lawsuit yourself?

10:31:45 22

A. Not that I can --

10:31:46 23

Q. Other than the class actions

10:31:47 24

that you mentioned?

10:31:48 25

A. Not that I can recall.

1

HOWARD A. HENRY

10:31:49 2 Q. Mr. Henry, are you married?

10:31:56 3 A. Yes, sir.

10:31:57 4 Q. Do you have any children?

10:31:58 5 A. No, sir.

10:31:58 6 Q. Have you been married
10:32:00 7 before?

10:32:00 8 A. No, sir.

10:32:00 9 Q. Can you tell me about your
10:32:01 10 educational background?

10:32:04 11 A. How far back?

10:32:06 12 Q. Start from high school,
10:32:07 13 please.

10:32:08 14 A. Graduated from Cardinal
10:32:11 15 Spellman High School. After that I
10:32:12 16 went to St. John's University and got a
10:32:15 17 degree in physical science. After that
10:32:18 18 I spent some time at the University of
10:32:20 19 Maryland, came home, worked and got a
10:32:24 20 degree from City College of New York in
10:32:27 21 approximately -- in the fall of 1997.

10:32:29 22 Q. And what degree was that
10:32:31 23 from City College?

10:32:31 24 A. Chemical engineering.

10:32:37 25 Q. That's a Master's degree?

1 HOWARD A. HENRY

10:32:39 2 A. Bachelor's degree. I have
10:32:41 3 two Bachelor's degrees.

10:32:44 4 Q. When did you get your
10:32:45 5 Bachelor's degree from St. John's?

10:32:47 6 A. 1990.

7 (Henry Exhibit 1 for
8 identification, Bates stamped 4026
9 through 4028.)

10 (Henry Exhibit 2 for
11 identification, Bates stamped 3320
10:33:27 12 through 3322.)

10:33:27 13 Q. I hand to you two documents.
10:33:29 14 The first document I handed you,
10:33:30 15 Exhibit number 1, if you look in the
10:33:32 16 lower right-hand corner there's a Bates
10:33:34 17 number, 4026. The second document I
10:33:36 18 handed you, Exhibit number 2, if you
10:33:38 19 look in the right-hand corner of that
10:33:40 20 document there's a Bates number 3320.

10:33:51 21 Mr. Henry, referring to
10:33:53 22 Exhibit number 1, this is a copy of
10:33:54 23 your resume?

10:33:55 24 A. Yes, sir.

10:33:56 25 Q. Exhibit number 2 is also a

1

HOWARD A. HENRY

10:59:04 2

Q. Mr. Henry, I placed in front

10:59:06 3

of you a document that's been marked

10:59:08 4

Exhibit number 4. It's a copy of the

10:59:11 5

complaint that was filed in this

10:59:14 6

action. Is this the document that you

10:59:19 7

said you had reviewed before today's

10:59:21 8

deposition?

10:59:22 9

A. Without reading the entire

10:59:39 10

document, it looks to be -- it looks to

10:59:44 11

be the document. Without reading the

10:59:46 12

entire thing, just skimming it.

10:59:49 13

Q. In your complaint you allege

10:59:51 14

that you were denied a number of

10:59:53 15

promotions during your employment at

10:59:56 16

Wyeth because of your race; is that

10:59:59 17

correct?

10:59:59 18

A. Yes, sir.

11:00:01 19

Q. Can you tell me the first

11:00:07 20

instance in which you believe you were

11:00:09 21

denied a promotion because of your

11:00:11 22

race?

11:00:12 23

A. I applied for a position of

11:00:18 24

project engineer on or about --

11:00:23 25

sometime in -- I can't remember the

1 HOWARD A. HENRY

11:00:28 2 exact time frame, but it was around
11:00:31 3 2001/2002, yes, December 2001, about
11:00:37 4 that time.

11:00:39 5 Q. And how did you apply for
11:00:41 6 that position?

11:00:41 7 A. Using the bid process at
11:00:46 8 Wyeth.

11:00:49 9 Q. Why were you interested in
11:00:50 10 this position?

11:00:51 11 A. Because during a special
11:00:55 12 circumstance that had arisen at that
11:00:59 13 time certain individuals were given
11:01:00 14 opportunities to do other things and at
11:01:05 15 that time I was performing the duties
11:01:06 16 of a project engineer for a project
11:01:09 17 that was taking place during that time.
11:01:12 18 So I was functioning as a project
11:01:15 19 engineer. So that's where the interest
11:01:18 20 came from.

11:01:19 21 Q. Who were you working on this
11:01:21 22 special project with that you referred
11:01:23 23 to?

11:01:23 24 A. Peter McGarrigle, Kevin
11:01:27 25 Costello, and certain outside vendors.

1 HOWARD A. HENRY

11:01:38 2 Q. And can you describe the
11:01:39 3 project for me?

11:01:40 4 A. Basically it was called the
11:01:42 5 continuous coater project where we were
11:01:44 6 supposed to perform duties and
11:01:45 7 functions to facilitate the proper
11:01:52 8 installation, performance, of a new
11:01:54 9 technology that was called the
11:01:57 10 continuous tablet coater. So all the
11:02:00 11 equipment associated with that, all the
11:02:07 12 objects associated with that we were
11:02:09 13 responsible for.

11:02:10 14 Q. Do you know how this
11:02:11 15 position became open? Is there someone
11:02:16 16 that left Wyeth that opened up this
11:02:20 17 position as a project engineer?

11:02:21 18 A. From what I remember it was
11:02:22 19 a restructuring that occurred and
11:02:25 20 during this restructuring certain
11:02:30 21 engineers were given the title as
11:02:33 22 project engineers, certain engineers
11:02:37 23 will remain production engineers, so
11:02:39 24 forth and so on.

11:02:41 25 So there was some sort of

1

HOWARD A. HENRY

11:02:43 2

restructuring at that time that made
the position available.

11:02:46 3

11:02:46 4

Q. So you submitted a bid for
this open position, correct?

11:02:48 5

11:02:49 6

A. From what I remember, yes,
yes.

11:02:51 7

11:02:51 8

Q. And what happened next?

11:02:53 9

11:02:57 10

A. Well, I didn't receive the
opportunity and I didn't -- at that
time I just took it as, well I'll
continue to move on and continue
searching.

11:03:02 11

11:03:05 12

11:03:07 13

11:03:08 14

Q. Were you interviewed for the
position?

11:03:10 15

11:03:10 16

A. Not formally, no.

11:03:12 17

11:03:13 18

Q. Informally were you
interviewed?

11:03:14 19

11:03:16 20

A. I don't think I was
interviewed at all.

11:03:17 21

11:03:18 22

Q. Did you talk to anyone about
this position?

11:03:21 23

11:03:22 24

11:03:25 25

A. I may have made mention to
some of the engineers who were there at
the time.

1

HOWARD A. HENRY

11:03:25 2

Q. Do you know who the

11:03:27 3

decisionmakers were on this open

11:03:28 4

position?

11:03:28 5

A. I think the main

11:03:30 6

decisionmaker was Kevin Costello

11:03:33 7

himself.

11:03:34 8

Q. Kevin Costello and who?

11:03:35 9

A. I think he was -- from what

11:03:38 10

I remember I think he was the major

11:03:40 11

decisionmaker, Kevin Costello.

11:03:42 12

Q. Anyone else involved? You

11:03:44 13

said he was the major decisionmaker.

11:03:46 14

Was there anyone else involved?

11:03:47 15

A. Well, when I use the word

11:03:51 16

major, it's hard to tell who's major

11:03:53 17

and who's minor at times. You just

11:03:56 18

base your -- base your, for lack of a

11:04:00 19

better word, your ability to understand

11:04:02 20

and gather the information based on

11:04:04 21

what you see going on in front of you.

11:04:06 22

So he seemed to be the main one making

11:04:10 23

the decision because the person was

11:04:12 24

reporting to him.

11:04:12 25

Q. But you don't know who made

HOWARD A. HENRY

1
11:04:14 2 the decision?

11:04:15 3 A. Not a hundred percent.

11:04:17 4 Q. And you don't know who
11:04:24 5 was --

11:04:25 6 A. Well --

11:04:26 7 Q. -- was involved in this
11:04:27 8 decision?

11:04:27 9 A. Well I mean Kevin and I had
11:04:29 10 a conversation and based on that
11:04:31 11 conversation he told me that he made
11:04:34 12 this decision himself. Now whether his
11:04:40 13 decision was influenced by anybody
11:04:42 14 else, I don't know. But he said he
11:04:43 15 made the decision himself.

11:04:44 16 Q. When did he tell you that?

11:04:45 17 A. I can't remember exactly
11:04:47 18 when, but it was during -- it was
11:04:49 19 before the announcement was made as to
11:04:51 20 who got the position.

11:04:53 21 Q. But after Kevin had made the
11:04:54 22 decision?

11:04:56 23 A. Right. He had said that,
11:04:57 24 you know, there's a girl that he's
11:04:59 25 interested in and, you know, that was

1

HOWARD A. HENRY

11:05:04 2

his decision.

11:05:04 3

Q. Did he tell you the name of

11:05:07 4

this girl?

11:05:12 5

A. I don't know if he told me

11:05:13 6

the name at that time.

11:05:14 7

Q. Do you know who was

11:05:14 8

ultimately hired for this position?

11:05:17 9

A. Yes.

11:05:17 10

Q. Who was that?

11:05:18 11

A. Cara Muscolo.

11:05:22 12

Q. Do you know what Cara's

11:05:24 13

qualifications are?

11:05:26 14

A. I know she worked at Wyeth

11:05:29 15

for a short stint. I know that she has

11:05:32 16

a -- at the time she had a BE in

11:05:36 17

chemical engineering.

11:05:37 18

Q. Do you know what her work

11:05:39 19

background is?

11:05:39 20

A. I know that she worked at

11:05:41 21

Wyeth as -- in the packaging area for a

11:05:44 22

short stint as either a supervisor of

11:05:50 23

some sort, but I don't know a hundred

11:05:53 24

percent.

11:05:53 25

Q. Did you ever work with Cara?

1

HOWARD A. HENRY

11:05:55 2

A. Yes, I have.

11:06:01 3

Q. When did you work with her?

11:06:03 4

A. At various times during

11:06:05 5

various projects throughout my stint at

11:06:08 6

Wyeth when I was an engineer. The

11:06:10 7

engineers, we kind of cross-pollinate,

11:06:13 8

if you will.

11:06:13 9

Q. Did you work with her before

11:06:14 10

she was hired for this particular

11:06:16 11

position?

11:06:16 12

A. No.

11:06:18 13

Q. But you worked with her

11:06:20 14

after?

11:06:20 15

A. Yes.

11:06:21 16

Q. And what are your

11:06:22 17

impressions of Cara?

11:06:27 18

A. I'm not here to judge her.

11:06:28 19

We worked together and, you know, I

11:06:34 20

guess there are all areas where we can

11:06:36 21

learn from each other and grow from

11:06:38 22

each other. So, basically for the

11:06:46 23

most, part we were amicable toward each

11:06:48 24

other.

11:06:49 25

Q. Do you have any reason to

1 HOWARD A. HENRY

11:06:50 2 believe she was not qualified for the
11:06:52 3 position she was hired at the time she
11:06:53 4 was hired?

11:06:54 5 A. I cannot say she was not
11:06:56 6 qualified.

11:07:05 7 Q. And after the decision was
11:07:06 8 made and having had the opportunity to
11:07:08 9 work with her, do you believe that she
11:07:13 10 was in fact qualified for the position?

11:07:15 11 A. I believe that she -- she
11:07:21 12 performed her functions, she did her
11:07:23 13 duties. She performed the function in
11:07:30 14 the position, but I can't -- I wouldn't
11:07:32 15 judge her in that light. It's not for,
11:07:35 16 me to judge her like that.

11:07:36 17 Q. But I'm asking you to judge
11:07:47 18 her and I'm asking you to tell me based
11:07:50 19 on your experience with her in this
11:07:51 20 position whether she was in fact
11:07:53 21 qualified for this position?

11:07:57 22 A. I can't say she was not
11:07:59 23 qualified. I can't say that she didn't
11:08:01 24 perform the duties in the position.
11:08:04 25 From what -- from my interaction with

1 HOWARD A. HENRY

11:08:06 2 her we interacted well, and that's the
11:08:11 3 best I can assess.

11:08:14 4 Q. Do you know what criteria
11:08:16 5 was used in selecting Cara Muscolo for
11:08:21 6 this position?

11:08:26 7 A. All of the criteria, no.

11:08:28 8 Q. Do you know any of the
11:08:29 9 criteria?

11:08:29 10 A. I mean what was mentioned to
11:08:31 11 me was that there was a -- there was an
11:08:34 12 area that she -- she -- she had some
11:08:40 13 exposure to and based on that the
11:08:42 14 decision was made.

11:08:48 15 Q. But you weren't involved in
11:08:50 16 the decisionmaking process?

11:08:51 17 A. No.

11:08:52 18 Q. And who told you about this?
11:08:56 19 You mentioned someone told you about
11:08:57 20 this one criteria. Who was that
11:09:01 21 person?

11:09:01 22 A. Mr. Costello himself.

11:09:03 23 Q. When you spoke to Mr.
11:09:18 24 Costello about this decision, did you
11:09:21 25 express any disappointment that you

1

HOWARD A. HENRY

11:09:24 2

weren't selected for the position?

11:09:26 3

A. I mean I didn't -- I don't

11:09:29 4

know if I'm -- if I kind of looked

11:09:31 5

disappointed. I may have looked

11:09:33 6

disappointed, but at that time he and

11:09:37 7

I, I took it as, you know, that was his

11:09:40 8

decision, I respected it, and I moved

11:09:42 9

on at that time.

11:09:43 10

Q. Do you have any basis for

11:09:52 11

believing that you were not chosen for

11:09:54 12

this particular position because of

11:09:56 13

your race?

11:09:59 14

A. I believe a pattern was

11:10:02 15

established as time went on. I mean I,

11:10:05 16

wasn't really looking for that at that

11:10:08 17

time. You know, we were all working

11:10:11 18

together to achieve goals, to do what's

11:10:15 19

right for the company. So I wasn't

11:10:17 20

really looking for anything at that

11:10:18 21

time. But as time went on a pattern

11:10:21 22

established itself.

11:10:25 23

Q. I don't think you answered

11:10:26 24

my question. I'll ask it again. Do

11:10:30 25

you have any basis for believing that

1

HOWARD A. HENRY

11:10:31 2

you were not chosen for that particular
position because of your race?

11:10:34 3

11:10:37 4

A. At that time? Or now?

11:10:43 5

Q. At that time.

11:10:43 6

11:10:44 7

A. At that time I didn't see
what I saw now.

11:10:46 8

11:10:49 9

Q. So the answer is at that
time, no?

11:10:50 10

A. At that time, no.

11:10:50 11

Q. Okay. Now how about now?

11:10:53 12

A. Now --

11:10:54 13

11:10:55 14

Q. Do you have a basis for
believing?

11:10:55 15

11:10:57 16

A. Now, as a pattern
established itself I believe there is a
basis for it.

11:10:58 17

11:10:59 18

11:11:01 19

Q. And what is that basis for
believing that you were not chosen for
this particular position because of
your race?

11:11:02 20

11:11:05 21

11:11:06 22

11:11:08 23

11:11:12 24

11:11:14 25

A. Basically as I began to
apply for more positions, and I -- not
in every case, but in most of those
cases, there seemed to be a pattern at

1

HOWARD A. HENRY

11:11:17 2

which we weren't even considered, when

11:11:22 3

I say we, myself, and some of the

11:11:25 4

African American men that I spoke with,

11:11:27 5

were not considered for a managerial

11:11:31 6

track position at Wyeth.

11:11:37 7

Q. Any other basis?

11:11:40 8

A. There may be some other

11:11:41 9

basis, but I mean the baseline that's

11:11:47 10

established, the foundational truth

11:11:50 11

that's been established took time to

11:11:52 12

develop themselves. It wasn't

11:11:57 13

something that -- it wasn't an

11:11:58 14

instantaneous thing that spurred in my

11:12:01 15

emotion or spurred in my heart, but

11:12:03 16

it's something that presented itself

11:12:05 17

over time.

11:12:06 18

Q. I'd like you to focus again

11:12:08 19

on this particular hiring decision.

11:12:10 20

And is there anything at all about this

11:12:12 21

particular decision, asking you just

11:12:15 22

about this decision in isolation, do

11:12:20 23

you have any basis for believing that

11:12:22 24

you were not chosen because of your

11:12:24 25

race? And I understand what you've

1 HOWARD A. HENRY

11:28:00 2 A. Yes.

11:28:02 3 Q. Did you have any discussions
11:28:06 4 with Mr. Schaschl about this position
11:28:10 5 and the fact that you did not get the
11:28:12 6 position?

11:28:13 7 A. Yes.

11:28:15 8 Q. When did that discussion
11:28:17 9 occur?

11:28:18 10 A. There may have been a
11:28:23 11 previous discussion, but the one I
11:28:24 12 recall the most was in January of 2004.

11:28:36 13 Q. About a year and a half
11:28:37 14 after --

11:28:40 15 A. There may have been --

11:28:41 16 Q. -- the decision was made?

11:28:42 17 A. There may have been another
11:28:43 18 discussion that occurred afterwards,
11:28:47 19 but --

11:28:48 20 Q. But you don't recall --

11:28:50 21 A. No.

11:28:50 22 Q. -- anything that was said
11:28:51 23 during that discussion? So the only
11:28:53 24 discussion you remember with Mr.
11:28:55 25 Schaschl is a discussion you had with

1

HOWARD A. HENRY

11:28:56 2

him in approximately January 2004,

11:28:59 3

correct?

11:28:59 4

A. At that time -- at this

11:29:01 5

time, yes.

11:29:02 6

Q. And can you tell me about

11:29:03 7

that discussion you had with Mr.

11:29:05 8

Schaschl in 2004?

11:29:07 9

A. I asked him how was the

11:29:13 10

decision made as far -- regarding the

11:29:16 11

production engineer product -- excuse

11:29:18 12

me, product coordinator position at the

11:29:22 13

time when it was available. He said

11:29:24 14

that well, Chris had done it for a

11:29:26 15

little while, he had done it for a

11:29:31 16

little while. So I said well, given

11:29:36 17

the opportunity, I would have liked to

11:29:40 18

have done it for a little while.

11:29:43 19

Because usually you're given the

11:29:45 20

opportunity to do something for a

11:29:46 21

little while just to expose yourself to

11:29:48 22

it, and it, you know, if you show

11:29:52 23

interest in a particular position they

11:29:55 24

may extract some of the duties of that

11:29:56 25

position for you to do it so that you

1

HOWARD A. HENRY

11:30:00 2 can -- should the position be made
11:30:04 3 available perhaps slide into the
11:30:07 4 position or be the chief candidate for
11:30:13 5 the position once it becomes available.

11:30:16 6 Q. What did Mr. Schaschl say?

11:30:23 7 A. Basically he said that he,
11:30:24 8 meaning Mr. DeFeciani was chosen because
11:30:27 9 he did it for a little while, and I said,
11:30:30 10 well, when it was made available on a
11:30:32 11 temporary basis I would like to have had
11:30:34 12 an opportunity to do it for a little
11:30:38 13 while. And he said, well, it was given
11:30:41 14 to Rich because he did it for a little
11:30:43 15 while. And I said, well, when Chris went
11:30:46 16 out hurt on medical leave why wasn't I
11:30:52 17 afforded the opportunity to do it for a
11:30:54 18 little while, you know I was interested
11:30:55 19 in the position, you knew Chris and I
11:30:58 20 interviewed for the position, therefore,
11:31:00 21 I would have liked the opportunity to
11:31:02 22 have done it for a little while. And he
11:31:05 23 kind of excused and he kept on repeating
11:31:07 24 that, you know, the reason why Rich was
11:31:09 25 given the temporary assignment to do it

1

HOWARD A. HENRY

11:31:12 2

was that he did it for a little while.

11:31:14 3

Q. Did he explain any other,

11:31:16 4

did Mr. Schaschl explain any other

11:31:17 5

reason for his decision in choosing Mr.

11:31:21 6

DeFeciani?

11:31:22 7

A. No.

11:31:23 8

Q. Did you ask?

11:31:23 9

A. I mean -- yes, I asked him,

11:31:25 10

I said -- you know, sorry, I didn't

11:31:28 11

mean to cut you off.

11:31:29 12

Q. No, go ahead.

11:31:30 13

A. I mean basically I

11:31:31 14

questioned him again and I said so he

11:31:33 15

did it for a little while and he said

11:31:35 16

yes. That was it.

11:31:40 17

Q. Is there anything else you

11:31:41 18

recall from this conversation with Mr.

11:31:44 19

Schaschl in January of 2004, anything

11:31:45 20

else you said or anything else he said?

11:31:47 21

A. Regarding this particular

11:31:48 22

issue?

11:31:49 23

Q. Yes.

11:31:49 24

A. Not that I can recall.

11:31:54 25

Q. Did you tell Mr. Schaschl

1

HOWARD A. HENRY

11:31:58 2

that you believed you had not been

11:32:00 3

chosen because of your race?

11:32:01 4

A. At that time, no.

11:32:09 5

Q. At that time, January 2004,

11:32:10 6

had you told anyone that you believed

11:32:12 7

that you had not been chosen for any

11:32:16 8

particular position because of your

11:32:17 9

race?

11:32:18 10

A. I started to suspect certain

11:32:22 11

things at that time, but I didn't want

11:32:24 12

to come out right and say it until I

11:32:29 13

felt, you know, that was the case.

11:32:31 14

Q. So before -- at this time you

11:32:35 15

had made no complaint with anyone at

11:32:37 16

Wyeth regarding racial discrimination of

11:32:39 17

any sort, January of 2004?

11:32:42 18

A. Not that I can recall, no.

11:32:48 19

Q. You mentioned in your

11:32:53 20

meeting with Mr. Schaschl in January

11:32:56 21

2004, you mentioned something about Mr.

11:32:57 22

DeFeciani being out for a period of

11:33:01 23

time and you had wanted to fill in for

11:33:04 24

him. Can you explain to me what that

11:33:06 25

was about?

1

HOWARD A. HENRY

11:33:07 2

A. Mr. DeFeciani went out on

11:33:11 3

medical leave. He had to get some

11:33:13 4

heart surgery. So there was going to

11:33:18 5

be someone who was going to fill the

11:33:20 6

position as an interim, and it was

11:33:28 7

going to -- that's how the position was

11:33:30 8

made available on an interim basis.

11:33:33 9

Q. So Mr. DeFeciani went out on

11:33:37 10

medical leave?

11:33:37 11

A. Right.

11:33:38 12

Q. With the understanding that

11:33:38 13

he would be returning to Wyeth?

11:33:40 14

A. Right.

11:33:41 15

Q. Returning to the same

11:33:42 16

position?

11:33:42 17

A. Right.

11:33:42 18

Q. So the position was just

11:33:46 19

someone filling in in Mr. DeFeciani's

11:33:48 20

absence, correct?

11:33:49 21

A. Right.

11:33:50 22

Q. Did you tell anyone that you

11:33:53 23

were interested in this particular

11:33:56 24

position or filling in for Mr.

11:34:00 25

DeFeciani when he was out on medical

HOWARD A. HENRY

1
11:34:03 2
11:34:07 3
11:34:08 4
11:34:14 5
11:34:16 6
11:34:16 7
11:34:18 8
11:34:19 9
11:34:21 10
11:34:21 11
11:34:24 12
11:34:31 13
11:34:42 14
11:34:45 15
11:34:47 16
11:34:51 17
11:34:51 18
11:34:53 19
11:34:58 20
11:35:02 21
11:35:05 22
11:35:08 23
11:35:09 24
11:35:15 25

leave?

A. I had a discussion with Mr. Wardrop as to why I wasn't afforded the opportunity to do it when Chris was out.

Q. Mr. Wardrop or Mr. Schaschl?

A. Mr. Wardrop.

Q. And when did that conversation occur?

A. It was -- it occurred around January of -- January/February of 2003.

Q. And this was after the time period where Mr. DeFeciani had gone out and returned from medical leave?

A. I can't recall. I don't know.

Q. Do you know whether you told anybody, anybody at Wyeth that you were interested in filling in for Mr. DeFeciani either before he went out on his medical leave or during his medical leave?

A. I don't recall. I don't recall.

1

HOWARD A. HENRY

11:35:15 2

Q. When you met with Mr.

11:35:29 3

Wardrop in January/February 2003, what
was the purpose of this meeting?

11:35:33 4

11:35:37 5

A. Just so that we could

11:35:40 6

discuss certain production issues on

11:35:44 7

the floor, certain roles of certain

11:35:50 8

individuals, including myself, and just

11:35:54 9

to kind of lay out how we're going to

11:36:00 10

proceed throughout the year.

11:36:03 11

Q. And did you bring up the

11:36:05 12

issue of the production coordinator

11:36:07 13

position, filling in for Mr. DeFeciani?

11:36:13 14

A. Yes.

11:36:14 15

Q. What did you say about that?

11:36:15 16

A. Basically I told him that,

11:36:17 17

you know, I know that basically, most

11:36:23 18

of the time people get positions

11:36:25 19

because they do it for a little while.

11:36:27 20

I interviewed for the position

11:36:29 21

officially in 2002, and I would have --

11:36:32 22

I would have liked an opportunity to

11:36:34 23

fill the position on that interim

11:36:38 24

basis, why wasn't I given that

11:36:39 25

opportunity. And he basically stated

1 HOWARD A. HENRY

11:36:43 2 that they, meaning Schaschl and others,
11:36:46 3 because I asked him who's the they, he
11:36:48 4 said Andy and some others, I didn't ask
11:36:51 5 him who the others were, told him, I
11:36:54 6 mean basically made a decision that
11:36:57 7 Rich Morgan would be able to do it for
11:36:59 8 a little while, should be given the
11:37:02 9 opportunity to do it for a little
11:37:03 10 while.

11:37:06 11 Q. And was in fact Chris Morgan
11:37:09 12 the individual who filled in for Mr.
11:37:11 13 DeFeciani?

11:37:12 14 A. Yes.

11:37:12 15 Q. Had Mr. Morgan been filling
11:37:15 16 in for Mr. DeFeciani prior to this --

11:37:19 17 A. I don't know.

11:37:19 18 Q. -- when he was absent for
11:37:22 19 short periods of time?

11:37:23 20 A. I don't know.

11:37:24 21 Q. Do you know anything about
11:37:33 22 Mr. DeFeciani's qualifications for this
11:37:36 23 particular position as a production
11:37:37 24 coordinator?

11:37:39 25 A. As to when he first got it

1

HOWARD A. HENRY

11:37:43 2 or him performing the duties himself?

11:37:48 3 Q. Let's start with when he
11:37:49 4 first got it.

11:37:50 5 A. No.

11:37:51 6 Q. And how about today, as you
11:37:55 7 sit here?

11:38:01 8 A. I mean no.

11:38:07 9 Q. Do you have any reason to
11:38:08 10 believe that Mr. DeFeciani was not
11:38:10 11 qualified for the position?

11:38:11 12 A. No.

11:38:12 13 Q. At the time he was hired?

11:38:13 14 A. No.

11:38:13 15 Q. Do you have any reason to
11:38:15 16 believe that he was not qualified at
11:38:19 17 any time he was serving in this
11:38:20 18 position?

11:38:21 19 A. No.

11:38:21 20 Q. Do you have any reason to
11:38:40 21 believe -- strike that.

11:38:41 22 Can you tell me what your
11:38:43 23 basis is for believing that you were
11:38:46 24 not selected for this particular
11:38:48 25 position because of your race?

1 HOWARD A. HENRY

11:38:51 2 A. When I approached Mr.
11:38:55 3 Schaschl and I asked him, you know, he
11:39:01 4 appeared truculent and he stated that
11:39:06 5 basically the reason why Chris got it
11:39:10 6 was because he did it for a little
11:39:11 7 while. I stated that well I wanted the
11:39:14 8 opportunity to do it for a little
11:39:16 9 while, you were well aware of the fact
11:39:18 10 that I interviewed for the position
11:39:19 11 previously, and that should an
11:39:22 12 opportunity like this come up, I should
11:39:25 13 have been afforded that opportunity.

11:39:31 14 And I don't recall his
11:39:32 15 response at this time, but for all
11:39:39 16 intents and purposes he just stated
11:39:40 17 that well, at that time the decision
11:39:43 18 was made because Chris had did it for a
11:39:46 19 little while.

11:39:47 20 Q. Anything else?

11:39:49 21 A. No, I can't recall at this
11:39:51 22 time.

11:39:51 23 Q. Now how about Mr. Morgan,
11:39:57 24 the individual who filled in for Mr.
11:39:59 25 DeFeciani during his medical leave, do

1

HOWARD A. HENRY

11:40:03 2

you know anything about his

11:40:04 3

qualifications for filling in for this

11:40:08 4

particular position?

11:40:09 5

A. Well, he was a production

11:40:12 6

supervisor. He started out as a

11:40:16 7

pharmaceutical operator. As far as his

11:40:21 8

education, he didn't have a degree at

11:40:30 9

the time.

11:40:30 10

Q. Anything else?

11:40:32 11

A. That's basically it.

11:40:35 12

Q. Do you know whether a degree

11:40:37 13

is required for this position?

11:40:40 14

A. I don't remember the exact

11:40:44 15

job posting. From what I do recall I

11:40:47 16

think a degree, they requested a

11:40:49 17

degree.

11:40:50 18

Q. But there was no job posting

11:40:53 19

for the position when it -- when Mr.

11:40:57 20

DeFeciani went out on medical leave?

11:41:00 21

A. No.

11:41:00 22

Q. There really was no

11:41:01 23

position?

11:41:02 24

A. Well, no, there wasn't. No.

11:41:07 25

Q. It was just filling in?

1 HOWARD A. HENRY

11:41:09 2 A. Yes.

11:41:10 3 Q. Mr. Morgan didn't get a new
11:41:14 4 title during this position, did he, as
11:41:17 5 far as you know?

11:41:18 6 A. Well, he would sign things
11:41:19 7 electronically interim production
11:41:22 8 coordinator. And, you know, they
11:41:26 9 afforded us a loose interpretation of
11:41:29 10 using titles like that if you did
11:41:32 11 something on an interim basis.

11:41:34 12 Q. Did he continue to use that
11:41:36 13 title after his period of filling in
11:41:39 14 for Mr. DeFeciani ended?

11:41:41 15 A. No.

11:41:42 16 Q. Do you have any reason to
11:41:52 17 believe that Mr. Morgan was not
11:41:53 18 qualified to step in and temporarily
11:41:57 19 perform the production coordinator job
11:42:00 20 duties during Mr. DeFeciani's absence?

11:42:03 21 A. No.

11:42:04 22 Q. And can you tell me what
11:42:09 23 your basis is for believing that you
11:42:13 24 were not asked to fill in for Mr.
11:42:18 25 DeFeciani during his medical leave

1

HOWARD A. HENRY

11:42:26 2 because of your race?

11:42:28 3 A. Usually, the -- more -- many
11:42:37 4 of the individuals that had that
11:42:39 5 position went on to become managers.
11:42:42 6 So this position has a lot of exposure,
11:42:46 7 introduces you to a lot of situations
11:42:49 8 that a manager considers as he moves
11:42:53 9 throughout the corporate structure. So
11:42:56 10 this position is used as a stepping
11:42:58 11 stone toward management.

11:43:04 12 And basically, I made it
11:43:07 13 known throughout my constant speaking
11:43:12 14 with individuals that I wanted to
11:43:13 15 improve, acquire more knowledge and
11:43:18 16 sought management positions, a
11:43:20 17 management position within the
11:43:21 18 organization.

11:43:22 19 Q. Do you have any other basis
11:43:30 20 for believing that you were denied this
11:43:33 21 opportunity because of your race?

11:43:35 22 A. No.

11:43:40 23 Q. Do you know who made the
11:43:51 24 decision to have Mr. Morgan fill in for
11:43:53 25 Mr. DeFeciani during his absence?

1

HOWARD A. HENRY

11:43:56 2

A. From what Mr. Wardrop told

11:43:57 3

me it was Andy Schaschl's decision.

11:44:00 4

Q. Do you know whether Mr.

11:44:02 5

DeFeciani had any input in this

11:44:05 6

decision?

11:44:05 7

A. No.

11:44:06 8

Q. If I can refer you to the

11:44:20 9

complaint which has been marked as

11:44:21 10

Exhibit number 4, paragraph 25.

11:44:28 11

A. Yes.

11:44:29 12

Q. Paragraph 25 says, "In the

11:44:31 13

spring of 2003, Howard complained to

11:44:35 14

Walter Wardrop regarding his denial of

11:44:37 15

advancement opportunities."

11:44:41 16

A. Right.

11:44:41 17

Q. Is that the conversation

11:44:46 18

with Mr. Wardrop that you had referred

11:44:49 19

to --

11:44:51 20

A. Yes.

11:44:51 21

Q. -- a little while ago?

11:44:53 22

A. Yes.

11:44:53 23

Q. And what advancement

11:44:57 24

opportunities did you discuss at this

11:45:00 25

particular meeting?

1

HOWARD A. HENRY

11:45:03 2

A. The mainly --

11:45:04 3

Q. Was it -- I'm sorry.

11:45:05 4

A. No, go on.

11:45:07 5

Q. Was it just the three

11:45:09 6

positions that we have just discussed,

11:45:11 7

the project -- well, I should say two

11:45:13 8

positions, the project engineer

11:45:14 9

position and the production coordinator

11:45:16 10

position?

11:45:17 11

A. From what I can recall, yes.

11:45:20 12

Q. Okay. What was the next

11:45:31 13

position that you were -- that you had

11:45:34 14

applied for but did not receive?

11:45:43 15

A. I think it was the process

11:45:45 16

engineer position.

11:45:48 17

Q. And that position was in the

11:45:49 18

vaccine division; is that correct?

11:45:52 19

A. Yes.

11:45:52 20

Q. That's a separate division

11:45:54 21

than you were working in?

11:45:56 22

A. Yes.

11:45:57 23

Q. And it's a separate division

11:45:59 24

than the production coordinator

11:46:02 25

position you had previously applied to?

1

HOWARD A. HENRY

11:46:04 2

A. Yes.

11:46:04 3

Q. As well as the project

11:46:06 4

engineer position that you previously
have applied to?

11:46:08 5

11:46:08 6

A. Yes.

11:46:09 7

Q. And how did you apply for

11:46:15 8

this position?

11:46:16 9

A. Through the bidding process.

11:46:18 10

Q. What happened after you

11:46:20 11

submitted your bid?

11:46:23 12

A. I think I got confirmation

11:46:25 13

that my bid was received.

11:46:27 14

Q. What happened next?

11:46:29 15

A. From what I remember, I was

11:46:34 16

contacted about an interview.

11:46:35 17

Q. And did you interview?

11:46:36 18

A. Yes.

11:46:36 19

Q. Who did you interview with?

11:46:38 20

A. A gentleman by -- I think

11:46:42 21

his name was Kirit Rokad, I think.

11:47:01 22

Q. And who was Kirit Rokad?

11:47:03 23

A. He was the person that the

11:47:05 24

position reported into.

11:47:10 25

Q. So is it your understanding

HOWARD A. HENRY

that he was the individual who was going to be making the hiring decision with this job?

A. Yes.

Q. And do you know what his position was at this time?

A. No.

Q. Did you know him before --

A. No.

Q. And can you tell me what your understanding of this position was?

A. It was performing functions within the vaccine area as an engineer, dealing with their equipment, dealing with aseptic conditions.

Q. And why were you interested in this position?

A. Basically, after the restructuring, I decided that perhaps maybe I should look at some other opportunities outside of the consumer health division. So I started to look outside.

1 HOWARD A. HENRY

11:48:18 2 MR. McQUADE: Could you
11:48:18 3 please mark that.

4 (Henry Exhibit 5 for
5 identification, interview schedule for
11:48:31 6 the process engineer position.)

11:48:31 7 Q. Mr. Henry, I've handed you
11:48:45 8 an exhibit marked Exhibit number 5. Do
11:48:50 9 you recognize this document?

11:48:53 10 A. Yes.

11:48:53 11 Q. And what is it?

11:48:54 12 A. Interview schedule for
11:48:56 13 the -- for the process engineer
11:48:59 14 position.

11:48:59 15 Q. And does this refresh your
11:49:02 16 recollection as to who you interviewed
11:49:04 17 with?

11:49:05 18 A. Yes.

11:49:06 19 Q. Robert Ruth, do you remember
11:49:11 20 your interview with Robert Ruth?

11:49:14 21 A. I remember meeting him. I
11:49:16 22 don't remember exactly everything that
11:49:22 23 was said.

11:49:22 24 Q. Kirit Rokad we already spoke
11:49:25 25 about. You also met with Andrew Fong.

1

HOWARD A. HENRY

11:49:28 2

A. Right.

11:49:29 3

Q. Do you remember anything

11:49:30 4

about that particular meeting?

11:49:31 5

A. Not everything that was

11:49:32 6

said, no.

11:49:33 7

Q. Rich Musa, you interviewed

11:49:34 8

with Rich as well?

11:49:35 9

A. Yes.

11:49:36 10

Q. Do you remember anything

11:49:37 11

from that?

11:49:37 12

A. Vaguely.

11:49:42 13

Q. Gaurav Patel?

11:49:45 14

A. Yes.

11:49:46 15

Q. Do you remember anything

11:49:51 16

from that interview?

11:49:52 17

A. Not at this time.

11:49:53 18

Q. You also interviewed with

11:49:55 19

Monica Amonica?

11:49:57 20

A. Yes.

11:49:57 21

Q. Do you remember anything

11:49:58 22

from that particular interview?

11:49:59 23

A. No.

11:50:00 24

Q. Did you consider this

11:50:10 25

position a promotion?

1

HOWARD A. HENRY

11:50:10 2

A. Yes.

11:50:13 3

Q. Why?

11:50:13 4

11:50:15 5 A. There was going to be a
11:50:19 6 level change from what I understand
involved.

11:50:21 7

Q. When you say level change,
11:50:22 8 that's the salary level?

11:50:24 9

A. Right.

11:50:24 10

Q. Do you know what the salary
11:50:26 11 level for this position was?

11:50:27 12

A. I can't recall.

11:50:28 13

Q. Is there any other reason
11:50:37 14 why you viewed it as a promotion?

11:50:39 15

A. Opportunity, another area.

11:50:44 16

Q. Do you know who else bid on
11:50:46 17 this particular --

11:50:50 18

A. No.

11:50:50 19

Q. -- position? Do you know
11:50:52 20 who was hired for this particular
11:50:53 21 position?

11:50:53 22

A. I remember -- I remember a
11:50:59 23 name Martinez. I don't remember
11:51:01 24 anything other than that.

11:51:02 25

Q. Do you know anyone by the

1

HOWARD A. HENRY

11:51:04 2

name of Angel Montanez?

11:51:08 3

A. No, not that I can recall.

11:51:16 4

Q. So you thought someone by

11:51:18 5

the name of Martinez may have --

11:51:19 6

A. I thought that's what it was

11:51:21 7

but I don't know.

11:51:22 8

Q. But you don't know, as you

11:51:23 9

sit here today you don't know who was

11:51:25 10

hired for this position?

11:51:26 11

A. Without a shadow of a doubt,

11:51:28 12

no.

11:51:28 13

Q. Who do you think might be

11:51:30 14

hired for this position?

11:51:31 15

A. I don't know. With all due

11:51:33 16

respect, I don't know.

11:51:33 17

Q. So you don't know who was

11:51:35 18

hired for the position, you don't know

11:51:36 19

who applied for the position all you

11:51:41 20

know is that you, yourself applied for

11:51:44 21

this position, correct?

11:51:44 22

A. Yes.

11:51:45 23

Q. Do you believe that you were

11:51:47 24

qualified for this position?

11:51:48 25

A. Yes.

HOWARD A. HENRY

11:51:49 2

Q. How so?

11:51:50 3

11:51:52 4

11:51:56 5

11:52:00 6

11:52:02 7

11:52:07 8

11:52:09 9

11:52:13 10

11:52:15 11

11:52:16 12

11:52:17 13

11:52:19 14

11:52:23 15

11:52:24 16

11:52:24 17

11:52:29 18

11:52:32 19

11:52:36 20

11:52:42 21

11:52:45 22

11:52:49 23

11:52:51 24

11:52:52 25

A. Based on the posting I had the qualifications. They requested an engineering background and some of the descriptions that were -- that they described met some of the qualifications that I had.

Q. Had you ever worked in the vaccine division at Wyeth before?

A. No.

Q. Do you believe that it would have been an advantage to hire someone who had been working in that division?

A. Yes.

Q. Why?

A. Exposure and experience sometimes defeats some of the things that you may think a person may have, so. A proven track record helps.

Q. And had you ever worked with any of the individuals in this division that you interviewed with?

A. Yes.

Q. And who was that?

1

HOWARD A. HENRY

11:52:53 2

A. Rich Musa.

11:52:55 3

Q. Other than Rich?

11:52:57 4

A. No.

11:52:59 5

11:53:04 6

11:53:06 7

11:53:09 8

Q. And what is your basis for believing that you were denied this particular position because of your race?

11:53:10 9

11:53:12 10

11:53:14 11

11:53:15 12

11:53:17 13

A. Well, I didn't -- I didn't express that I was denied this particular position because of my race.

11:53:18 14

Q. Do you believe that as we sit here today?

11:53:19 15

11:53:22 16

A. No.

11:53:39 17

11:53:39 18

11:53:42 19

Q. So you don't believe -- okay.

Can you tell me what the next position you applied for and were denied?

11:53:43 20

A. Staff engineer.

11:53:45 21

11:53:47 22

Q. And do you know when that was?

11:53:48 23

11:53:50 24

A. Same time, around January, February 2004.

11:53:55 25

Q. And in what division was

1

HOWARD A. HENRY

11:54:08 2

that position?

11:54:09 3

A. I think it was bioprocess.

11:54:20 4

Q. And where does bioprocess

11:54:22 5

fit in?

11:54:24 6

A. In the research aspect of

11:54:26 7

Wyeth.

11:54:27 8

Q. It's a different department

11:54:39 9

separate from the departments in which

11:54:43 10

the production coordinator and project

11:54:46 11

engineer positions?

11:54:50 12

A. Yes.

11:54:52 13

Q. And how did you apply for

11:54:55 14

this position?

11:54:56 15

A. Through the bidding process,

11:54:58 16

Q. And what happened after you

11:55:08 17

submitted your bid?

11:55:09 18

A. I think I received

11:55:10 19

confirmation that I got the -- that my

11:55:13 20

application was received.

11:55:19 21

Q. Anything else happen?

11:55:21 22

A. No. That I could recall,

11:55:25 23

no.

11:55:25 24

Q. Did you ever interview for

11:55:27 25

this position?

1

HOWARD A. HENRY

11:55:27 2

A. No.

11:55:28 3

Q. Did you apply for -- did you submit just one bid?

11:55:31 5

A. There was two jobs opening and I think I submitted one bid. I may have submitted two.

11:55:34 6

11:55:36 7

11:55:40 8

Q. When you said there were two jobs opening, is that --

11:55:41 9

11:55:43 10

A. There were two jobs with two different posting numbers, so that means there were two positions available.

11:55:45 11

11:55:47 12

11:55:48 13

11:55:48 14

Q. They were both staff engineer positions?

11:55:50 15

11:55:51 16

A. Yes.

11:55:52 17

Q. And you know you submitted a bid for one of these positions; is that correct?

11:55:55 18

11:55:58 19

11:55:58 20

A. Yes.

11:55:58 21

Q. But you're not sure if you submitted two bids?

11:56:00 22

11:56:01 23

A. Right. I may have, but I don't remember.

11:56:04 24

11:56:04 25

Q. Do you know who -- how

1

HOWARD A. HENRY

11:56:11 2

this -- or I should say how these staff engineer positions came to be opened?

11:56:16 3

11:56:22 4

A. They were posted on the website, the Wyeth job listing website.

11:56:23 5

11:56:26 6

11:56:28 7

Q. Who held these positions previously?

11:56:29 8

11:56:30 9

11:56:34 10

A. I don't know. I don't know if they were newly recreated. I don't know.

11:56:34 11

11:56:36 12

Q. What does a staff engineer do?

11:56:37 13

11:56:38 14

11:56:46 15

11:56:48 16

11:56:53 17

11:56:58 18

11:57:01 19

11:57:03 20

11:57:05 21

11:57:06 22

11:57:10 23

11:57:16 24

11:57:18 25

Q. And do you remember who the supervisor would be for each of these

1

HOWARD A. HENRY

11:57:20 2

two openings as a staff engineer?

11:57:23 3

A. I know -- I think it said

11:57:26 4

the position reported to a gentleman by

11:57:28 5

the name of John Simpson.

11:57:31 6

Q. Who is John Simpson?

11:57:34 7

A. I think he was a director at

11:57:36 8

the time for that particular area.

11:57:38 9

Q. Did you have any prior

11:57:40 10

relationship with Mr. Simpson?

11:57:41 11

A. We interacted.

11:57:46 12

Q. How did you interact?

11:57:48 13

A. Well when I was in research

11:57:51 14

sometimes there was a period where I

11:57:53 15

was working for the division and there

11:58:00 16

was some -- they needed help in that

11:58:02 17

area and I worked with some of the

11:58:04 18

engineers over in that area, and John

11:58:07 19

Simpson and some other individuals were

11:58:10 20

the head -- were heads in that area.

11:58:12 21

Q. Do you know who was

11:58:18 22

ultimately selected for the position,

11:58:21 23

these two positions as staff engineer?

11:58:23 24

A. I was told Andrew Safernack

11:58:26 25

and David Anderson were the two

1

HOWARD A. HENRY

11:58:30 2

gentlemen.

11:58:30 3

Q. Who told you that?

11:58:31 4

A. When I went down to the area

11:58:33 5

I inquired and there were certain

11:58:36 6

individuals who explained to me that

11:58:38 7

those were individuals chosen.

11:58:40 8

Q. Who did you inquire with

11:58:44 9

about this and who told you this?

11:58:45 10

A. A gentleman by the name of

11:58:47 11

Gary Forrest.

11:58:50 12

Q. Who is Gary Forrest?

11:58:53 13

A. He is a director over there

11:58:56 14

at the time. He may have been an

11:58:57 15

associate director. He was over there.

11:58:59 16

at the time.

11:59:02 17

Q. Did he tell you anything

11:59:04 18

else about Mr. Safernack or Mr.

11:59:07 19

Anderson?

11:59:08 20

A. No.

11:59:08 21

Q. Did you ask him anything

11:59:09 22

else about these positions?

11:59:11 23

A. I think I asked him will

11:59:15 24

there be any more openings. He said he

11:59:18 25

wasn't sure.

1 HOWARD A. HENRY

11:59:19 2 Q. Do you know -- well, you
11:59:28 3 said it's your understanding that Mr.
11:59:31 4 Simpson made the decision?

11:59:32 5 A. Right. When I had my resume
11:59:35 6 I gave it to him personally, so yes.

11:59:38 7 Q. What did you tell him when
11:59:40 8 you gave him your resume?

11:59:42 9 A. I said I'm very interested
11:59:43 10 in this position, I would like to be
11:59:44 11 interviewed for it. He said well then
11:59:47 12 we're taking our time in the review
11:59:49 13 process, but hopefully somebody will
11:59:53 14 contact you regarding it.

11:59:55 15 Q. Anything else that you
11:59:57 16 recall?

11:59:58 17 A. Not that I can recall.

11:59:59 18 Q. With Mr. Simpson? Did you
12:00:02 19 have any other discussions with Mr.
12:00:03 20 Simpson about these positions?

12:00:04 21 A. Not that I can recall.

12:00:05 22 Q. So you don't know how the
12:00:08 23 decision was made?

12:00:09 24 A. No.

12:00:10 25 Q. You don't know who was

1 HOWARD A. HENRY

13:45:11 2 A. They changed the structure
13:45:12 3 from time to time. They changed the
13:45:14 4 criteria from time to time, how they
13:45:17 5 did it. But you got appraised every
13:45:19 6 year.

13:45:19 7 Q. And how did that appraisal
13:45:21 8 process work?

13:45:22 9 A. Depending on the year, your
13:45:28 10 supervisor would discuss your
13:45:30 11 achievements and goals at the end of a
13:45:32 12 particular year. So in this case, it
13:45:40 13 went from January 2000 to December of
13:45:46 14 2000.

13:45:46 15 Q. And did you typically meet
13:45:48 16 with the manager or supervisor who
13:45:51 17 completed the performance evaluation
13:45:53 18 for you?

13:45:53 19 A. Yes.

13:45:54 20 Q. And who was the supervisor
13:45:58 21 that performed this performance
13:45:59 22 evaluation?

13:46:00 23 A. Walter Wardrop.

13:46:03 24 Q. And did you meet with Mr.
13:46:04 25 Wardrop regarding this performance

1

HOWARD A. HENRY

13:46:07 2

evaluation?

13:46:07 3

A. Yes.

13:46:08 4

13:46:11 5

13:46:15 6

13:46:16 7

13:46:17 8

13:46:22 9

13:46:24 10

13:46:27 11

13:46:29 12

13:46:32 13

13:46:38 14

13:46:40 15

13:46:46 16

13:46:49 17

13:46:52 18

13:46:56 19

13:46:59 20

13:47:01 21

13:47:05 22

13:47:08 23

13:47:11 24

13:47:14 25

Q. Do you recall anything about that meeting in particular, what he said, what you said, what was discussed?

A. He asked, he said that he got feedback from my previous supervisor based on my performance in that area, because I was new to the area. So basically he only had a few months to evaluate me.

So we discussed my role in the area, how he saw the role and how I can -- I told him about my desires to grow within the area, learn my duties and do them well, and to just continue to grow as an engineer, as an individual in the organization.

Q. If you'd turn to Page 4 of this performance review, it provides a summary of the performance and there's an overall rating that is provided. Do you see that?

1

HOWARD A. HENRY

13:47:14 2

A. Yes.

13:47:15 3

13:47:17 4

Q. And what is your overall rating for this year?

13:47:19 5

13:47:21 6

A. It said solid performer, which is a three.

13:47:22 7

13:47:24 8

13:47:26 9

13:47:28 10

Q. And there are four different rating categories -- I'm sorry, five different rating categories on this particular form; is that correct?

13:47:29 11

13:47:30 12

A. Correct.

13:47:35 13

13:47:36 14

Q. A solid performer falling right in the middle, correct?

13:47:37 15

13:47:39 16

13:47:43 17

13:47:47 18

A. Right.

13:47:47 19

13:47:49 20

Q. You didn't provide any comment, did you?

13:47:50 21

13:47:51 22

13:47:54 23

13:47:55 24

13:47:55 25

A. No.

Q. And you signed this agreement. Is that your signature there?

A. Yes.

1

HOWARD A. HENRY

13:47:56 2

13:47:59 3

Q. And then under yours is
Walter Wardrop's signature?

13:48:00 4

A. Yes.

13:48:00 5

13:48:02 6

13:48:04 7

Q. And then do you recognize
the signature under Mr. Wardrop's
signature?

13:48:05 8

13:48:06 9

A. I believe that's Jack
Riley's.

13:48:07 10

13:48:08 11

13:48:10 12

Q. And who is Jack Riley?

13:48:17 13

13:48:18 14

13:48:19 15

13:49:15 16

13:49:16 17

13:49:18 18

13:49:19 19

13:49:19 20

13:49:26 21

13:49:27 22

13:49:32 23

13:49:33 24

13:49:34 25

A. He was the director in the
area at that time.

Q. Did you have any
disagreement with anything written in
this performance evaluation? I'll
rephrase the question for you. Do you
recall having any disagreement with
this performance review?

A. No.

Q. Okay. Do you recall
thinking whether it was a -- whether
you thought it was a good review?

A. No.

Q. You have no recollection?

A. I felt -- I felt that I was

HOWARD A. HENRY

new to the area so there was not much I could have, you know -- at that time, I was rather green to the area, so. Just getting -- I was getting to know just some of the duties in the area, so. I was -- I was -- at that time I was accepting of it.

Q. Had you received ratings of -- well strike that.

(Henry Exhibit 11 for identification, Bates stamped 4020 through 4025.)

Q. I'm going to hand you another document which has been marked Exhibit 11. Do you recognize this document?

A. Yes.

Q. And what is this?

A. My performance evaluation for 2001.

Q. And who completed this evaluation for you?

A. Walter Wardrop.

Q. Did you meet with Mr.

1

HOWARD A. HENRY

13:50:41 2

Wardrop about this evaluation?

13:50:43 3

A. Yes.

13:50:44 4

Q. And what did you discuss?

13:50:48 5

13:50:50 6

13:50:53 7

13:50:55 8

13:50:58 9

13:51:01 10

13:51:05 11

13:51:06 12

13:51:11 13

13:51:14 14

13:51:18 15

13:51:25 16

13:51:30 17

13:51:32 18

13:51:36 19

13:51:39 20

13:51:41 21

13:51:43 22

13:51:46 23

13:51:48 24

13:51:59 25

A. He was pleased with my performance. He was happy of the strides that I made. He liked the fact that I got along with people, my leadership qualities, the type of individual I was, how I was a leader in my department when it came to a lot of issues, and how I've grown as a person, as an engineer, my respect for people, how I collaborate well, the quality of work I produced, my integrity.

Q. Did Mr. Wardrop have any criticism that you recall of your performance, constructive or otherwise?

A. I can't recall.

Q. How was your relationship with Mr. Wardrop at this time?

A. I felt it was good, very good I felt at the time.

Q. Again I notice that on Page 5 employee comments there's -- you

HOWARD A. HENRY

1
13:52:01 2 didn't provide any comments, did you?

13:52:04 3 A. Sometimes when you do the
13:52:05 4 review he -- it's read to you, and a
13:52:10 5 lot of times you forget about the
13:52:12 6 employee comment page. So at that --
13:52:17 7 you know, sometimes you may -- you may
13:52:20 8 think -- you may discuss certain things
13:52:23 9 you want to have added to your
13:52:24 10 experience, certain things you want to
13:52:27 11 do, certain ideas you may have and just
13:52:32 12 your growth. I do remember discussing
13:52:35 13 at most of these reviews that I want to
13:52:37 14 grow within the company, I wanted to
13:52:39 15 learn more skills, I desired to go on
13:52:42 16 to become a manager.

13:52:45 17 So I may not have put it
13:52:47 18 down here, but we would discuss it.

13:52:49 19 Q. Was it Mr. -- do you recall
13:52:51 20 whether Mr. Wardrop, when you sat down
13:52:53 21 with him with this performance review
13:52:55 22 or any other performance review, did he
13:52:58 23 read it to you?

13:52:59 24 A. Sometimes he would, yes. He
13:53:01 25 would read it.

1

HOWARD A. HENRY

13:53:02 2

Q. And he'd give you -- in addition, he'd give you a copy?

13:53:04 3

13:53:06 4

A. Sometimes you'd get the copy afterwards. Like I didn't get a copy of this until I requested it later on. So I didn't have a copy.

13:53:08 5

13:53:09 6

13:53:12 7

13:53:14 8

13:53:23 9

Q. Do you recall having -- do you recall disagreeing with anything written in this particular performance review?

13:53:24 10

13:53:25 11

13:53:26 12

13:53:27 13

A. No, I don't recall I disagreed with anything.

14

15

(Henry Exhibit 12 for identification, Bates stamped 4015 through 4019.)

13:53:35 16

13:53:35 17

13:53:36 18

13:53:52 19

13:53:53 20

Q. I'm handing you a document that's been marked Henry Exhibit 12. Do you recognize this?

13:53:56 21

13:53:57 22

13:53:59 23

13:54:01 24

13:54:03 25

A. Yes.

Q. And what is it?

A. My performance evaluation for 2002.

Q. And at this time Mr. Wardrop was still your supervisor?

HOWARD A. HENRY

A. Yes.

Q. Do you recall your meeting -- did you have a meeting with Mr. Wardrop --

A. Yes.

Q. -- about this performance review?

A. Yes.

Q. Do you remember anything from that meeting?

A. I remember that I felt that I should have been rated higher for some of the things I was able to accomplish that were critical in the group. I remember when he gave me the line item 2 for the special project that I told him that I did do it, but I didn't have a chance to give it to him and he understood that.

But other than that, I told him that, you know, I want to continue to grow, and I asked him what would it take for me to be a five because I was a four twice, I always want to improve,

HOWARD A. HENRY

and he said that I was very, you know, close to doing that, I wasn't, you know, far from accomplishing that, you know, and he would try to create mechanisms that he felt would get me to that particular tier.

Q. Going back to the first page, you mentioned the special project. The review states "Howard never identified or completed a special project as assigned."

A. Well, I identified one, but there was a -- there was a situation where I couldn't give it to him. So I gave it to him, showed it to him afterward. But this had already been -- this had already been written, so based on that he couldn't change anything, but we discussed it.

Q. Did he remind you several times about getting the special project from you?

A. I don't recall. I think he may have made mention to it -- of it in

1

HOWARD A. HENRY

13:56:07 2

a meeting, but I don't recall.

13:56:09 3

Q. What was the special project?

13:56:11 4

13:56:11 5

13:56:14 6

13:56:17 7

13:56:20 8

13:56:22 9

13:56:26 10

13:56:28 11

13:56:34 12

13:56:37 13

13:56:40 14

13:56:44 15

13:56:47 16

13:56:49 17

13:56:51 18

13:56:52 19

20

Q. And did you ever get it done?

A. Yes.

13:57:03 21

13:57:03 22

13:57:04 23

Q. Did you -- do you recall disagreeing with anything in this review?

13:57:09 24

13:57:10 25

A. Just that I felt I should have been rated higher. I thought I

1

HOWARD A. HENRY

13:57:12 2

did -- I did things that warranted a five. He understood.

13:57:14 3

13:57:18 4

13:57:21 5

Q. What did you do -- what had you done that you believed warranted a five?

13:57:23 6

13:57:24 7

13:57:27 8

13:57:30 9

13:57:32 10

13:57:34 11

13:57:37 12

13:57:38 13

13:57:40 14

13:57:43 15

13:57:46 16

13:57:49 17

13:57:50 18

13:57:52 19

13:57:54 20

13:57:59 21

13:58:02 22

13:58:06 23

13:58:09 24

13:58:12 25

A. Well, stayed, worked different shifts, worked three to 11 shift when he asked me to, worked midnight shift when he asked me to, came in on weekends, stayed late, trained the operators, trained the management staff, troubleshoot the equipment, came in on off hours when I needed to, paged -- no matter what time I was paged, answered the page, walk them through problems, if they didn't get through it went there myself and showed them how it was done. Because this was a highly recognizable project that corporate definitely wanted us to complete, and I was pinnacle and I was key in terms of it being completed and being successful.

Q. These actions you've just

1

HOWARD A. HENRY

13:58:14 2

described for me, aren't they part of your job duties?

13:58:16 3

13:58:18 4

13:58:20 5

13:58:22 6

13:58:25 7

13:58:27 8

13:58:29 9

13:58:31 10

13:58:32 11

13:58:35 12

13:58:35 13

13:58:40 14

13:58:43 15

13:58:45 16

13:58:48 17

13:58:52 18

13:58:53 19

13:58:54 20

13:58:57 21

13:58:58 22

13:59:00 23

13:59:03 24

13:59:05 25

A. Not going on different shifts. He asked me if I would do that. I didn't have to do that, but he said he would really appreciate if I could -- if I would consider doing that. It was not something that I had to do. The other engineers weren't asked to do that. I was. And I did it.

Q. So other than the staying late, doing different shifts, coming in different hours, the other actions you described are part of your normal job duties? Yes or no.

A. Referring to this -- referring to the continuous coater project, this project in particular?

Q. What you were just describing. If we could back up, I asked you what you thought you had done in the past year that warranted a five rating, and you listed several items

1

HOWARD A. HENRY

13:59:08 2

for me.

13:59:08 3

A. Right.

13:59:09 4

13:59:12 5

13:59:14 6

13:59:17 7

13:59:19 8

13:59:21 9

13:59:24 10

13:59:29 11

13:59:31 12

13:59:32 13

13:59:37 14

13:59:39 15

13:59:42 16

13:59:44 17

13:59:47 18

13:59:50 19

13:59:52 20

13:59:56 21

13:59:58 22

13:59:59 23

14:00:01 24

14:00:02 25

Q. Some of those items included staying late, working different shifts, coming in odd hours, and then you listed several other actions that you -- that you took over the course of the year. I'm asking you if those actions you listed, aren't those part of your normal job duties?

A. Some of these functions was outside my normal duties. My normal duties would be to optimize the current equipment that we had, okay. Troubleshooting it, optimizing it, seeking ways to enhance the process. Outside of that would be helping the operator, teaching him, you know, taking off -- putting on your lab coat, putting on your jeans and going in there and cleaning the equipment -- the equipment itself. I did that. That's outside of my job function.

I would -- when they were

HOWARD A. HENRY

doing inspections I would be down there. That's a supervisory function. I would supervise the operators and the supervisors and tell them exactly what they should do. That's outside of my job function. So there's a lot of things that are not captured here that are outside of my job function that I performed.

Q. Did you explain these items to Mr. Wardrop at the time of the performance review?

A. I did. I did.

Q. What was his response?

A. He shook his head, he understood, he respected the fact. I said to him, you know, as far as I'm concerned, next year I'm going to do everything I can to be rated five. He said okay.

(Henry Exhibit 13 for identification, Bates stamped D 00176 and 177.)

Q. I hand you a document that's

1

HOWARD A. HENRY

14:00:50 2

been marked Exhibit 13. Can you tell me what this document is?

14:01:05 3

14:01:07 4

14:01:08 5

MR. MORELLI: Do you have another one?

14:01:10 6

14:01:11 7

MR. McQUADE: Oh, sorry, yes.

14:01:13 8

14:01:19 9

MR. MORELLI: Thank you.

14:01:22 10

A. This is a midyear review.

14:01:24 11

Q. Have you seen this document before?

14:01:24 12

A. Yes.

14:01:25 13

14:01:31 14

Q. Did you meet with Mr. Wardrop regarding this document?

14:01:33 15

A. Yes.

14:01:33 16

14:01:36 17

Q. Was that in September 2003?

14:01:37 18

A. This was not in September 2003. Well, I mean -- this -- this was not, from what I recall, this did not occur on September 3rd, 2003. From what I -- from what I recall. I don't remember -- I don't remember it being that time.

14:01:43 19

14:01:46 20

14:01:52 21

14:01:54 22

14:01:55 23

14:01:58 24

14:02:01 25

Q. Okay. Other than the timing of this document, do you recall seeing

1

HOWARD A. HENRY

14:02:05 2

this document in --

14:02:08 3

A. I recall some of the things
on this document.

14:02:09 4

14:02:10 5

Q. Okay. And did you sit
down -- did you sit down with Mr.
Wardrop and discuss this document as
part of a midyear review?

14:02:12 6

14:02:14 7

14:02:16 8

14:02:17 9

A. Yes.

14:02:18 10

14:02:20 11

Q. Okay. So you're telling me
you're not sure --

14:02:22 12

14:02:23 13

14:02:25 14

A. Of the exact date. I don't
think it was conducted on September
3rd.

14:02:25 15

14:02:27 16

Q. Okay. When do you think it
was conducted?

14:02:28 17

14:02:30 18

14:02:34 19

14:02:38 20

14:02:39 21

A. I remember something around
April/May, around that time, something
closer to that range. I don't remember
anything like this happening in
September. We were too busy.

14:02:50 22

14:02:51 23

14:02:53 24

14:03:01 25

Q. Okay. So I'd like you to
take a close look at the document and
tell me -- well let me focus you --
under the heading "Areas to focus for

1

HOWARD A. HENRY

14:03:04 2

remainder of 2003"?

14:03:12 3

A. Right.

14:03:13 4

14:03:14 5

14:03:17 6

14:03:19 7

14:03:22 8

14:03:24 9

14:03:24 10

14:03:28 11

14:03:29 12

14:03:33 13

14:03:42 14

14:03:44 15

14:03:45 16

14:03:48 17

14:03:50 18

14:03:53 19

14:03:56 20

14:03:56 21

14:04:00 22

14:04:05 23

14:04:06 24

14:04:07 25

Q. It lists a number of projects that are in process, establishing goals that need to be completed by year's end. Goals is capitalized. Do you know what that is referring to?

A. These are things that he -- that we discussed, that he would like to see if possible completed by the end of the year.

Q. Okay. The second bullet point there talks about improved attendance. Did you discuss attendance with Mr. Wardrop?

A. Briefly.

Q. What did he say about attendance?

A. I don't recall exact, his exact words. I don't recall his exact words.

Q. Does that appear to be accurate? This indicates that as of

1

HOWARD A. HENRY

14:04:09 2

the date of this memo you had 11
absences for the year?

14:04:12 3

14:04:14 4

14:04:17 5

A. I mean it could be true.
I'm not -- I'm not certain.

14:04:22 6

14:04:25 7

14:04:27 8

14:04:29 9

14:04:31 10

14:04:32 11

14:04:33 12

14:04:35 13

14:04:37 14

14:04:39 15

14:04:42 16

14:04:43 17

14:04:48 18

14:04:49 19

14:04:56 20

14:05:00 21

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14:05:07 24

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Q. The memo also lists
reestablishing a formal tracking sheet
for performing and documenting work
performed. Did you discuss that?

A. I don't remember discussing
that.

Q. How about continuing to
focus on delivering projects, tasks,
action items, change controls,
commitments, on or ahead of schedule,
do you remember discussing that?

A. I don't remember. I don't
remember discussing it.

Q. If you'd turn the page it
says at the top there "As discussed,
when preparing the end of the year,
final 2003 goals, quantify and be
specific on accomplishments, i.e.
financial impact, labor saved, costs
reduced, safety upgrades. The goals

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HOWARD A. HENRY

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need to be result-driven, cause and effect summary of work performed and value added to the business." Again it's talking about 2003 goals. What is this?

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A. He wanted to mimic what he was being -- what corporate gave him and he wanted us to mimic those results.

14:05:34 12

Q. He was --

14:05:34 13

A. Go ahead.

14:05:35 14

14:05:39 15

Q. Was he asking you to provide some type of goals for 2003 to him?

14:05:44 16

A. I don't recall. I don't -- I don't recall.

14:05:45 17

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Q. Do you recall discussing with Mr. Wardrop during this meeting his desire to get some type of self-appraisal or goals for the year from you?

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A. I told -- we had a discussion about the self-appraisal, and I gave in a midyear appraisal. He sent me an email saying it was a good

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2 HOWARD A. HENRY

14:06:19 3 job, you know, I appreciate it, and I
14:06:21 4 put some points in, he added feedback.
14:06:24 5 That was during 2003.

14:06:25 6
14:06:28 7 During this time when I
14:06:32 8 started to really, you know, express my
14:06:36 9 desire to be afforded opportunities
14:06:39 10 within the organization he starts -- he
14:06:42 11 starts getting more formalized with
14:06:43 12 this type of document here.

14:06:45 13 Now, when he would give me a
14:06:47 14 document like this he would read
14:06:51 15 certain things to me, but I wasn't
14:06:55 16 really scrutinizing it as you're
14:06:57 17 scrutinizing it and as we're
14:06:59 18 scrutinizing it now.

14:07:00 19 I mean during the -- over
14:07:03 20 the course of our relationship we would
14:07:06 21 discuss things formally and informally.
14:07:08 22 Sometimes he would make things
14:07:10 23 poignant, sometimes he wouldn't. But
14:07:12 24 as this document goes, I did not
14:07:19 25 scrutinize it the way you are. I
14:07:21 didn't receive a copy or anything like
that to look at it later on, so.

HOWARD A. HENRY

Q. Well can you tell me what you recall from your discussion with Mr. Wardrop with this document?

A. I remember him asking me about why I haven't responded to my pages and I said, you know, I don't know, because everybody is having a problem with the paging system. He also asked me about some shot I had in the nurse's office, that I spent some time over there. I said well sometimes I bring work, sometimes I may read an article that deals with something we have an idea on and I may read it. I mean I've taken tens of -- plenty of shots over there in the course of five to seven years and sometimes I would go weekly and sometimes I would go biweekly. I don't remember every incident over there, but I've taken plenty of shots over there. And he -- it was kind of like he was trying to build, you know, in hindsight he was building something on me and I didn't

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see it at the time. So I looked at this as innocuous. I didn't see anything in it. I didn't scrutinize it.

And, you know, there were times where goals may not have been met. I would provide for him reasons why, whether I need collaboration from other people or we need to focus on these things in order to get these, implement certain things. So with this document I did not scrutinize it, I did not pay total attention to the -- to the, you know, the details of the conversation.

Q. Okay. Is there anything else you remember from the conversation with Mr. Wardrop?

A. I definitely remember those two things, but at this time nothing else.

Q. You don't remember anything else he said to you or that you said to him?

HOWARD A. HENRY

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A. At this time, no.

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14:09:04 4

Q. Do you remember being asked to sign the document?

14:09:06 5

A. Yes.

14:09:06 6

Q. Did you sign the document?

14:09:11 7

A. I think I did.

14:09:13 8

Q. During this -- strike that.

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(Henry Exhibit 14 for identification, Bates stamped EEOC 51 through 54.)

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Q. I'm giving you a document that's been marked Henry Exhibit 14. Do you recognize this document?

14:10:47 15

A. Yes.

14:10:51 16

14:10:58 17

14:11:00 18

Q. Do you remember meeting with Mr. Wardrop regarding this performance appraisal?

14:11:07 19

A. Yes.

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Q. Do you recall when that occurred?

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A. It occurred with Ms. Joanne Rose I think sometime in February or March of 2004, with this document.

Q. When you say this document?

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Q. Can you tell me in your own words what this Exhibit 16 is, the goals and self-appraisal?

A. The whole thing is a tracking system that's used to determine whether or not you're achieving goals set forth at the beginning of the year. We use it to determine whether or not we should continue in a certain direction, whether we should concentrate on one particular item and leave another item for a later date.

Q. Don't you think it would be helpful to have this document for a manager in preparing a performance review?

MR. MORELLI: If you can answer. Objection. Can you answer that?

A. I felt that the relationship Walter and -- Walter and I had and what we were corresponding to throughout the year was sufficient. In other words,

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there were two supervisors, not in the area, and I'm not a supervisor, I'm an engineer. So I volunteered without anybody asking me to pay attention to an area that was crucial to the organization. So in order for me to prepare a document like this for Mr. Wardrop would have taken me from that particular duty.

So if he really -- I mean when I went to him and explained to him the first time about the performance evaluation, he didn't seem like he needed it.

Now he sent out this email and he knew exactly every day we spoke and he knew exactly what I was doing. He would correspond with me in emails. He knew that I was responsible for, you know, having an area taken care of 24 hours, 24 hours. So he knew what he was doing.

So did he need this in terms of, you know, if he had no idea what I

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was doing, yes. But he knew what I was doing. We corresponded by email, we spoke. So it wasn't as critical as he may allude one to believe.

Q. Do you remember any other -- going back to your December meeting with Mr. Wardrop, when you met with him regarding your performance review, do you remember anything else that you two discussed regarding your performance review?

A. Not at this time.

Q. Okay. You mentioned the organizational cascade?

A. Yes.

Q. You discussed that with Mr. Wardrop during this meeting as well?

A. Yes.

Q. And what did --

A. And prior.

Q. What did he tell you about the organizational cascade?

A. He said there's a difference between perception and reality and

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that, you know, just remember that,
just remember that at the first time we

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spoke about it. Then at the

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performance evaluation he stated that

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the reason why you received the job

14:24:49 8

assignment at this -- during the

14:24:51 9

organizational cascade is because of
your performance.

14:25:01 10

14:25:02 11

Q. Do you remember him telling
you anything else?

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A. At this time, no.

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Q. Did he explain to you how
the organizational cascade, how those
decisions were made as part of the
process?

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A. He just basically stated
that it affected -- this influenced
people's decision on how they viewed me
and that's how I got -- that's why I
was selected for that particular area.
But it influenced people's decision.

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Q. What influenced people's
decision?

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A. The perception that was

HOWARD A. HENRY

created by Mr. Wardrop.

Q. And what perception is that?

A. That I was late, that I don't -- that I'm -- that I'm not a person that would be -- one could consider to rely on.

Q. How did he create that perception?

A. By making it seem that I was absent from my job assignments. He would ask certain people have they seen me when I distinctly told him that I may not be in the office that day, he would distinctly ask people have they seen me, have they heard from me. He was creating the perception. And I didn't know this until after the fact when my employees -- when my fellow colleagues came to me and said he would do this. He would be on the floor saying have you seen Mr. Henry. And me and him -- as if he were coming to me and telling me oh, do this, oh, that's fine, no problem. But on the floor he

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would tell people have you seen Howard, do you know where he is. That's how he was creating this perception. And I didn't know this until afterwards.

Q. So you believe he created a perception that you were not available by asking other employees about where you were?

A. Exactly.

Q. And that this somehow affected the organizational cascade and the selections made as part of the organizational cascade process?

A. Yes.

Q. You said you viewed the packaging supervisor position as a demotion; is that right?

A. Yes.

Q. Why do you consider it a demotion?

A. Most of the people who hold those positions are packaging operators. The educational level is a high school diploma. I have two

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degrees. And we interact with each other a lot, you know, and I see what they do. Other engineers from that area told me what they do. So we interact a lot. So we know what the job requires. So I know the capacity one has to have to perform those functions. And the requirement itself tells one that this is a -- this is a position for someone who's possibly getting their foot in the door but not somebody at that time who had seven, eight, nine years of experience that I had, and the track record I had.

Q. The position had the same, carried the same salary grade level?

A. Yes, for me, yes.

Q. So you would not, presumably not, if you had been put in this position you would not have received any change in salary or level, correct?

A. No.

Q. Did Mr. Wardrop tell you it was a demotion?

HOWARD A. HENRY

A. Not in those words.

Q. Did anyone tell you it was a demotion?

A. Yes.

Q. Who told you it was a demotion?

A. Not -- not to use the exact words, but individuals who work at the site know what it means to go from an engineer to a packaging supervisor. They know what it implies, they know what it means. Everyone knows that that means that this person really doesn't know what he's doing, he's incompetent.

Q. You were never in fact placed in that position? You never assumed those job responsibilities or that position?

A. No.

Q. Okay. Going back to Exhibit -- I don't have the exhibit number, but it's the performance evaluation, Bates number EEOC 0051 in

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HOWARD A. HENRY

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the lower right-hand corner.

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A. Okay.

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MR. MORELLI: It's 14.

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Q. Fourteen, thank you. You didn't sign this document, did you?

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A. No.

14:31:00 7

Q. Did you refuse to sign it?

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A. I wouldn't -- I wouldn't say I refused. I just went for a walk.

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But I'm not sure if this is the original document.

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Q. I understand. I understand.

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A. But I went for a walk. I

14:31:08 12

didn't --

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Q. Okay.

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A. He didn't ask me to sign it.

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Q. So how did this meeting with Mr. Wardrop end?

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A. I left and I said I have to go for a walk.

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Q. So what happened next?

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A. Well, I mean I continued

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to -- everyone -- everyone was told to stay -- to stay in their job currently,

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HOWARD A. HENRY

that they're currently doing, and I decided that I need to meet with him regarding this decision. I didn't agree with this decision. I didn't agree with being appointed to this area. I didn't agree how I was evaluated. And I felt that I needed to let him know that out of respect because at this point I was saying to myself perhaps we miscommunicated, perhaps we didn't really talk to each other the way we should have and expressed everything we should have. So I said let me just talk to him, and I did. And that was on January 5th.

Q. Who requested that meeting? Was that you?

A. It wasn't a request. It was just that, you know, we interacted and I said Walter, I need to speak to you, and he said well, I have interviews throughout the day. I said whenever you have some time I really would like to. So there was some time available.

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I went to his office and we spoke.

Q. And what did you tell him?

A. I said you -- the reason why -- I said I don't understand this decision, I don't -- I don't really respect the fact that I'm being evaluated the way I was evaluated and I need for you to give me some clarification. He said that, you know, he's not going to give me anything. I said I need to be reconsidered, I need to be reevaluated because I don't think the procedure was fair, I don't believe that I was evaluated fairly.

He said -- and I said I have these documents here, you didn't -- you said you didn't need them, you said you didn't want them, but I have them here, and I presented them with the engineering status report, with another document that tracks the goals, with -- I think with another document. I can't remember the three that I gave him, but...

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Q. Is that Exhibit 16 or some portion of Exhibit 16?

A. Yes, right.

Q. Okay.

A. And I told him I followed the company values, I did achieve the goals that we discussed. If there was any goal that couldn't be achieved I explained to him what I did in the past. Nothing changed to me from what we had in the past. The relationship I thought we had was if I didn't achieve something I told him why, I told him that it probably is going to take a collaboration, a collaborative effort between technology or QA and other people, they have to be pulled off their projects in order for us to get this done, what would you like for me to do. So I let him know, he said he wasn't going to do anything.

He said at this point he's not going to reevaluate me. He's not going to take my documents. As a

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taken an objective approach. She was very subjective in how she conducted the discussion.

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Q. At this point in time you still had not told anyone that you believed that any of these decisions had --

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Q. So what was your next step? What did you do next?

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A. I went to Mike McDermott. I met with Mike McDermott the first time.

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Q. Okay. Can you tell me about your meetings with Mike McDermott?

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A. You know, at first glance it was amicable. He felt -- I felt like

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he was approachable. And I honestly felt that he would do something because he had the power to do something. He explained that he couldn't get everybody's role right but that he would get back to me, he would look at things, he doesn't know all the details, and he would get the details and he would -- he would give me a call back and set up a meeting with him.

Q. And did he do that? Did he set up a meeting with you?

A. No, I had to call him back.

Q. Okay. And did you set up a meeting?

A. I think so. I think either he set it up, I don't remember who set it up, but we did meet.

Q. And what happened at that meeting?

A. He said that, you know, he can't give an executive order to change my evaluation and that my role remains a packaging role, and that, you know --

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and I said, listen, I said, if you're trying to create an atmosphere of diversity, one of the things you would like to do is promote African Americans, especially African American men because none of us are managers, none of us are afforded these opportunities.

And he went on to say, I'm all for diversity. And I looked at him and he said well as far as, you know, the way you're -- the way you're looking at me, I'm not going to get into that silly discussion with you. And I said to him, you know, it's an important discussion because we're trying to build a family of different people with different opinions to help grow the organization, and I think I can be utilized in that -- in that decisionmaking, I really do, I provide a lot for the company, I've done a lot of great things for the organization, and I think I should be afforded this

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HOWARD A. HENRY

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opportunity.

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Q. Was there anything further said about this diversity point, either by you or him?

14:53:52 5

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A. Not that I can -- not that I can recall.

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Q. Is there anything else you remember from this meeting with Mr. McDermott?

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Q. So what did you do next?

A. I contacted Mr. Peter Bigelow.

HOWARD A. HENRY

Q. Who's Mr. Bigelow?

A. He was the site director, so Mr. McDermott reported to him.

Q. And you set up a meeting with Mr. Bigelow?

A. I believe I did. I'm not sure whether it was me or his secretary.

Q. Did you know Mr. Bigelow before this meeting?

A. I met him one time during a tour, but it wasn't a sit-down meeting. It was a hello, this is Howard Henry, the engineer, this is Mr. Bigelow.

Q. Do you recall when you first met with him?

A. As far as first introduction or meeting him at --

Q. Meeting him --

A. Regarding this issue?

Q. Regarding this issue, correct.

A. I don't remember the exact date, but I do recall meeting with him,

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and he said that, you know, I really -- he said I don't know everything that's going on, I'm going to the FDA, but I will get back to you and I will find out what's going on. I know you don't know me, but I'll look and see what's going on.

I asked him to read my reviews, I asked him to look into the situation because I have a track record, and based on that track record I feel I wasn't evaluated fairly and I would ask for him to step in and look at the situation from an objective point of view to evaluate me.

Q. Did you tell Mr. Bigelow that you believed that you had been treated unfairly because of your race?

A. Not at that first meeting. It wasn't until the first meeting that I told him that.

Q. Do you know the date of that second meeting?

A. I can't recall the date. I

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would have to -- it had to be sometime
January/February of 2004.

MR. MCQUADE: Would you mark
this as Exhibit 18, please.

(Henry Exhibit 18 for
identification, Bates stamped 1438.)

Q. Mr. Henry, I've handed you a
document marked Exhibit 18. Do you
recognize this document?

A. Yes.

Q. It's an email that you sent
to Mr. Bigelow on February 16th, 2004;
is that correct?

A. Yes.

Q. The first sentence says
"After stating during our meeting on
February 11th, 2004 that Walter
Wardrop, Andy Schaschl sell and Michael
McDermott engaged in racial
discrimination and should be held
accountable," etcetera, etcetera. Does
this refresh your recollection as to
when you met with Mr. Bigelow and told
him that you believed that you had been

HOWARD A. HENRY

discriminated against?

A. Yes.

Q. Do you believe that meeting occurred on February 11th, 2004?

A. Yes.

Q. Do you think -- can you tell me is this the first time you told anyone at Wyeth that you had been discriminated or retaliated against?

A. This is the first time I'm officially stating it. I think that I started to feel that once certain answers started to come to light and they didn't make sense.

Q. Okay. So before this time you hadn't -- you hadn't told anyone else at Wyeth?

A. I can't say I didn't. I can -- I can't really say that I didn't. I mean this was -- I didn't -- I think I was in denial and I didn't want to believe it, so I --

Q. I understand. I'm not asking you what you believed. I'm

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HOWARD A. HENRY

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asking you what you actually told another individual at Wyeth, a manager, a supervisor, an HR person, anyone at Wyeth --

A. I think.

Q. Was this the first time --

A. I think this was the first time.

Q. Okay. And what was Mr. Bigelow's response when you told him this?

A. He looked at me and he said wow, I mean, you know, I seriously hope it's not the case, because I -- because he presented to me a document that supposedly shows certain goals that I didn't meet and the document was totally -- just did not genuinely reflect the truth and I told him that. And I said based on this, since each person I went to answers changed I feel and I must state this wholeheartedly, that I'm being racially discriminated against.

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Q. Whose answers changed?

A. Each individual I spoke to had a different reason as to the reason why I was placed.

Q. You're not saying that the individual's own individual answers changed, you're saying that each of the individual answers were inconsistent? Does that question make sense?

A. Well, Mr. Wardrop's answer changed three times. Mr. Schaschl's answer was different and reasoning was different from Mr. Wardrop's. Ms. Joanne Rose's reasoning was different from that of Mr. Schaschl and Mr. Wardrop. Mr. McDermott's reasoning and answer was different from that of Ms. Joanne Rose, Mr. Schaschl and Mr. Wardrop. They were not consistent with the reason why I was placed in packaging and why I was rated a three.

Q. What were Mr. Wardrop's three reasons?

A. The first was the perception

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versus reality reason, that there was a perception of me being late. The second is that and I didn't meet certain -- the second was I didn't meet certain goals, he wasn't going to reevaluate me. The third was I was chosen by someone and he tried his best for me not to be chosen. He tried to interact on my behalf and not have me put on a midnight shift.

Q. Okay.

A. Those were his three changes.

Q. Okay. Now those three changes those are explanations for --

A. Why I was given a three and why I was placed in packaging.

Q. The three explanations explained why you were given a three?

A. And why I was placed in packaging.

Q. All right. Mr. Schaschl?

A. Mr. Schaschl stated that even if I was given a five I was still

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15:02:09 2 moving -- I still was being moved or
15:02:10 3 could have been moved to packaging. He
15:02:13 4 said that I don't have supervisory
15:02:14 5 experience, that's why I'm not afforded
15:02:16 6 these managerial experiences --
15:02:19 7 opportunities, okay. So his answer was
15:02:22 8 different from that of Mr. Wardrop.
15:02:24 9 Mr. Wardrop didn't mention anything
15:02:26 10 about supervisory experience and the
15:02:28 11 lack thereof.

15:02:28 12 Q. How about Ms. Rose?

15:02:29 13 A. Ms. Rose said the bar may
15:02:32 14 have been raised, you know, she was
15:02:36 15 there when the people made choices, and
15:02:40 16 she didn't divulge everything that
15:02:42 17 happened.

15:02:42 18 Q. She probably didn't know
15:02:44 19 what happened, why decisions were made,
15:02:45 20 did she?

15:02:46 21 A. I can't say that, sir, with
15:02:48 22 all due respect. That would be
15:02:50 23 speculating, I don't know.

15:02:52 24 Q. Mr. McDermott, what was his
15:02:54 25 reason?

HOWARD A. HENRY

1
15:02:55 2 A. Mr. McDermott said that he's
15:02:57 3 opposed to people staying in the same
15:02:59 4 position for a long period of time. He
15:03:01 5 said that people should have diverse
15:03:04 6 experience. I explained to him that by
15:03:06 7 the time somebody's trained and meet --
15:03:08 8 and get the proper training to be in a
15:03:11 9 certain position you're not sure
15:03:13 10 whether they can actually handle the
15:03:15 11 position. And, you know, by that time
15:03:19 12 a lot of mistakes occur and that's what
15:03:21 13 got us into the position we were in
15:03:23 14 consent -- we got into a lot of
15:03:26 15 compliance issues because individuals
15:03:27 16 who weren't properly trained, who
15:03:30 17 wasn't properly qualified kept on
15:03:32 18 moving in different positions. And he
15:03:34 19 said that was a long time ago. I said
15:03:39 20 that's not a long time ago.

21
(Henry Exhibit 19 for
15:04:04 22 identification, Bates stamped 1432.)

15:04:04 23 Q. Mr. Henry, I've handed you a
15:04:11 24 document marked Henry Exhibit 19. It's
15:04:14 25 a February 25th, 2004 email from Mr.

1

HOWARD A. HENRY

15:04:17 2

Bigelow to Howard Henry. Do you

15:04:23 3

recognize this document?

15:04:24 4

A. Yes.

15:04:24 5

Q. Did you receive this email?

15:04:27 6

A. Yes.

15:04:28 7

Q. It states "I have reviewed

15:04:30 8

the performance appraisal documents

15:04:33 9

from the past years. In general, they

15:04:36 10

seem to be clear and objective." Did

15:04:40 11

you have any further discussion with

15:04:41 12

Mr. Bigelow about this after receiving

15:04:49 13

this email?

15:04:49 14

A. Not that I can recall.

15:04:51 15

Q. Okay. Is there anyone else

15:04:53 16

you met with or discussed your

15:05:02 17

dissatisfaction with the organizational

15:05:06 18

cascade or your 2003 performance review

15:05:09 19

that you haven't already mentioned?

15:05:11 20

A. Not that I can recall at

15:05:15 21

this time.

15:05:15 22

Q. Now did Mr. Bigelow ever

15:05:33 23

follow up with you regarding your

15:05:36 24

allegation about discrimination?

15:05:38 25

A. I think about a month, month

1

HOWARD A. HENRY

15:05:41 2

and a half later.

15:05:42 3

Q. And what happened?

15:05:43 4

A. He said he wanted to conduct
an investigation.

15:05:52 6

Q. Were you involved in any
sort of investigation?

15:05:53 7

15:05:54 8

A. Yes.

15:05:55 9

Q. How so?

15:05:56 10

A. I was asked by a gentleman
by the name of Gene Sackett a series of
questions regarding my statement.

15:05:59 11

15:06:04 12

15:06:14 13

Q. This was a meeting between

15:06:15 14

you and Mr. Sackett?

15:06:19 15

A. Yes.

15:06:20 16

Q. Do you remember when this

15:06:21 17

meeting occurred?

15:06:21 18

A. It could have been April of

15:06:28 19

2004, April.

15:06:30 20

Q. Was there anyone else

15:06:32 21

present during this meeting?

15:06:33 22

A. Not at that meeting, no.

15:06:35 23

Q. And can you tell me what you

15:06:37 24

remember telling Mr. Sackett at this

15:06:40 25

meeting?

1

HOWARD A. HENRY

15:06:41 2

15:06:55 3

15:06:58 4

15:07:01 5

15:07:01 6

15:07:08 7

15:07:12 8

15:07:15 9

15:07:20 10

15:07:28 11

15:07:31 12

15:07:32 13

15:07:36 14

15:07:37 15

15:07:43 16

15:07:45 17

15:07:46 18

15:07:48 19

15:07:48 20

15:07:49 21

15:07:56 22

15:07:59 23

15:08:04 24

15:08:06 25

A. I told him that I felt that -- (telephone interruption) excuse me, I beg your pardon. My apologies.

Q. That's okay.

A. Basically we discussed the organizational cascade and I presented him with the documents, my goals and objectives for 2003. We discussed my feelings of why I felt that I was allege -- I was talking about racial discrimination. And I don't recall everything that was said at that kind -- that kind of thing, but that was the general gist of the conversation.

Q. What did he tell you, if anything? Do you remember him telling you anything, or did he just ask questions?

A. He asked questions. He did tell me that there are packages available, you know. He mentioned something about a package, about something about three months or some kind of salary based on for every

1

HOWARD A. HENRY

15:08:09 2 year's service you get two weeks so in
15:08:13 3 my case it could be about six months.

15:08:17 4 He mentioned -- he read some
15:08:19 5 of the reviews, these are good reviews,
15:08:22 6 he said these are -- these are very,
15:08:25 7 very good, the past reviews. I didn't
15:08:28 8 have -- I don't think I had a 2003 at
15:08:31 9 the time. I think he made copies of
15:08:33 10 everything and said he would get back
15:08:35 11 to me.

15:08:36 12 Q. And what happened next?

15:08:44 13 A. That was it. And I didn't
15:08:46 14 hear from him from the date he said he
15:08:47 15 would get back to me. So I emailed him
15:08:50 16 and said you said you were going to get
15:08:52 17 back to me at a certain date, you never
15:08:54 18 did. And he emailed me back stating
15:08:57 19 sorry for any confusion that he may
15:08:59 20 have caused, but basically he's still
15:09:03 21 summing up -- summarizing his findings
15:09:06 22 and he'll give them over to Mr.
15:09:09 23 Bigelow. And I think at the time it
15:09:10 24 was Donna Grantland and they would
15:09:12 25 discuss with me my options.

1 HOWARD A. HENRY

15:09:20 2 Q. When were you advised that
15:09:28 3 you would not have to move into the
15:09:29 4 packaging supervisor position?

15:09:33 5 A. It had to be April/May of
15:09:37 6 2004 I was -- I was -- I was sent an
15:09:42 7 email -- I sent the email -- after I
15:09:44 8 spent -- after I met with Mr. Bigelow
15:09:48 9 and Ms. Grantland I was given an
15:09:52 10 email -- I responded to an email what
15:09:54 11 was discussed and what was discussed is
15:09:58 12 that there was a vaccines position they
15:10:03 13 was going to give me and that there was
15:10:05 14 the packaging supervisor position that
15:10:07 15 they were going to give me. And at
15:10:09 16 that time I emailed him and said these
15:10:14 17 weren't viable options that I mentioned
15:10:16 18 earlier and there was a project
15:10:18 19 engineer position that was available
15:10:19 20 that was a viable option.

15:10:21 21 THE VIDEO OPERATOR: Mr.
15:10:22 22 McQuade, I need to change the tape.

15:10:24 23 MR. MCQUADE: Okay. We'll
15:10:26 24 go off the record.

15:10:27 25 THE VIDEO OPERATOR: Going

1

HOWARD A. HENRY

15:10:27 2

off the record at 3:10. This is the
end of tape number 2.

15:10:29 3

15:10:55 4

(A recess was taken.)

15:21:27 5

15:21:45 6

15:21:46 7

THE VIDEO OPERATOR: Beginning
tape number 3 and returning to the record
at 3:21 from 3:10.

8

15:21:53 9

15:21:53 10

15:21:54 11

15:21:55 12

15:22:05 13

15:22:06 14

15:22:08 15

15:22:10 16

15:22:12 17

15:22:19 18

15:22:20 19

20

A. Yes.

15:22:30 21

15:22:31 22

15:22:33 23

15:22:34 24

15:22:37 25

Q. It refers to the senior
validation specialist role. What
position was that? That was the
position within the vaccine
organization?

1

HOWARD A. HENRY

15:22:38 2

A. Yes.

15:22:39 3

15:22:43 4

15:22:46 5

15:22:52 6

15:22:57 7

15:23:00 8

15:23:03 9

A. Yes.

15:23:04 10

15:23:14 11

15:23:17 12

15:23:18 13

15:23:19 14

15:23:21 15

15:23:22 16

15:23:23 17

15:23:24 18

15:23:28 19

15:23:28 20

15:23:30 21

15:23:31 22

15:23:33 23

15:23:35 24

15:23:35 25

Q. Okay. If you'd look at the top of the page, is this the email you received and were informed that you would in fact remain in the position that you were in and would not change to the packaging supervisor position?

Q. In the packaging supervisor position you would be managing people, wouldn't you?

A. Operators.

Q. But you'd be supervising people?

A. I'd -- yes.

Q. So it would be an opportunity to get some experience managing people?

A. I did that as an engineer though.

Q. But this would give you additional experience doing that; is that correct?

A. Perhaps.

1 HOWARD A. HENRY

15:23:37 2 Q. Did Mr. McDermott tell you
15:23:47 3 that that would be one of the
15:23:48 4 advantages in taking this position, is
15:23:51 5 that it would enable you to get some
15:23:53 6 management experience?

15:23:54 7 A. He said he started there.

15:23:56 8 Q. He started in the packaging
15:23:58 9 department himself?

15:23:59 10 A. Right.

11 (Henry Exhibit 21 for
12 identification, Bates stamped D 00296
15:24:18 13 and 297.)

15:24:18 14 Q. I'm handing you a document
15:24:19 15 marked Exhibit 21. Do you recognize
15:24:41 16 this document?

15:24:42 17 A. No.

15:24:43 18 Q. Had you seen this document
15:24:45 19 before today?

15:24:47 20 A. I can't recall a hundred
15:25:00 21 percent.

15:25:00 22 Q. Do you remember discussing
15:25:03 23 this incident -- this document refers
15:25:05 24 to an incident in which you couldn't be
15:25:07 25 found on March 12th, 2004, by Andrew

1

HOWARD A. HENRY

15:25:10 2

Espejo?

15:25:10 3

A. Right.

15:25:11 4

15:25:12 5

Q. Do you recall discussing
this matter with Mr. Espejo?

15:25:13 6

A. Yes.

15:25:14 7

15:25:15 8

Q. Can you tell me what you
recall about that discussion?

15:25:16 9

15:25:19 10

15:25:21 11

15:25:23 12

15:25:26 13

15:25:29 14

15:25:33 15

15:25:35 16

15:25:37 17

15:25:39 18

15:25:41 19

15:25:43 20

15:25:45 21

15:25:48 22

15:25:50 23

15:25:52 24

15:25:55 25

A. I reminded him that on March 4th I came to his office and asked him if I can work from four to 12 because I had something to do on Friday. He said no problem. He said only this once, no problem. I said I don't know if I'll need the whole day, I'll get back to you, but he said no problem.

So that morning I told him -- I think it was Thursday or that morning I told him I said I don't need the whole day, I just need part of the day, but whatever time that I do leave and come back I'll make up the time later on. He said no problem.

So I didn't -- I never -- he never showed me this document. We

1

HOWARD A. HENRY

15:25:56 2

discussed it and he said it was no problem.

15:25:58 3

15:26:00 4

15:26:02 5

15:26:06 6

15:26:08 7

15:26:16 8

15:26:18 9

15:26:20 10

15:26:23 11

15:26:25 12

15:26:27 13

15:26:28 14

15:26:29 15

15:26:30 16

15:26:32 17

15:26:43 18

15:26:46 19

15:26:47 20

15:26:48 21

15:26:49 22

15:26:50 23

15:26:52 24

15:26:53 25

So this is something that is not true at all. I didn't go AWOL. I spoke to him. We had a conversation on, I remember it was March 4th he and I, so this is not true.

Q. Well it is true, isn't it, that he approached you and discussed this unofficial leave with you?

A. It wasn't unofficial because I spoke to him about it.

Q. And you're telling me he had cleared it in advance?

A. He cleared it, hundred percent, without a shadow of a doubt.

Q. Did you tell him that when he discussed this?

A. Yes, he said oh, that's right. That's right, he said that's right, that's right, that's right, all right, no problem. That was it.

Q. Did you have any other discussions with Mr. Espejo about this?

1

HOWARD A. HENRY

15:26:54 2

A. About this, no.

3

4

(Henry Exhibit 22 for
identification, Bates stamped 1494 and
1495.)

15:27:05 5

15:27:05 6

Q. Handing you a document

15:27:06 7

that's marked Henry Exhibit 22. Can
you tell me what this document is?

15:27:37 8

15:27:38 9

A. It's a midyear review.

15:27:43 10

15:27:46 11

Q. And who put this midyear
review together?

15:27:47 12

A. Andrew Espejo.

15:27:50 13

Q. Did you meet with him?

15:27:52 14

A. Yes.

15:27:52 15

15:27:56 16

Q. At about July 9th, 2004
about this review?

15:27:57 17

A. I think so, yes.

15:27:58 18

Q. What do you recall from that
meeting?

15:28:02 19

15:28:02 20

A. I recall that he was trying
to allege and trying to develop an
ideology that I was not doing things on
time. So he developed what I -- and I
explained to him, I said, you know, it
seems to me that all of a sudden

15:28:05 21

15:28:10 22

15:28:14 23

15:28:18 24

15:28:21 25

1

HOWARD A. HENRY

15:28:22 2

there's a pattern here that people are

15:28:25 3

accusing me of being late. All of a

15:28:28 4

sudden now. I said, you know, I've

15:28:31 5

been working for this company almost

15:28:33 6

nine, ten years at this juncture and

15:28:38 7

I've never been accused of any of these

15:28:41 8

things, now all of a sudden I want to

15:28:43 9

move up and everybody seems to accuse

15:28:46 10

me, there seems to be a pattern going

15:28:47 11

on. He said no, no, no, no, these are

15:28:50 12

just things that I feel that -- I said

15:28:52 13

I'm not signing this, it does not

15:28:54 14

reflect the truth. So I didn't sign

15:28:56 15

it.

15:28:57 16

Q. If you look at the first

15:28:59 17

solid bullet point at the top there are

15:29:01 18

two bullet points under that. One of

15:29:04 19

them says "Missed target date of June

15:29:06 20

25th, 2004, to schedule meeting with

15:29:08 21

maintenance." Is that true?

15:29:10 22

A. He didn't make himself clear

15:29:13 23

as to exactly what he wanted.

15:29:15 24

Q. Did you miss the target date

15:29:17 25

of June 25, 2004?

1

HOWARD A. HENRY

15:29:18 2

15:29:20 3

15:29:22 4

15:29:24 5

15:29:24 6

15:29:26 7

15:29:28 8

15:29:29 9

15:29:30 10

15:29:33 11

15:29:33 12

15:29:35 13

15:29:37 14

15:29:39 15

15:29:40 16

15:29:44 17

15:29:44 18

15:29:45 19

15:29:46 20

15:29:49 21

15:29:51 22

15:29:53 23

15:29:54 24

15:29:56 25

A. He didn't make himself clear about the target date on any of this, that's why I didn't sign it. He didn't make it clear.

Q. But did you miss a date of June 25th, 2004, to schedule the meeting?

A. He didn't make it clear this date of June 25th, 2004. That's why I didn't sign it.

Q. So it's your position --

A. I can't say I missed the date because he didn't make it clear of any date like that.

Q. You're telling me you weren't aware of the fact that June 25th, 2004 was --

A. I'm telling you that when we had discussions about these maintenance plans, he came from a maintenance area, he wanted me to focus on maintenance things. I said I don't understand because as engineers we're not -- we're not responsible for the actual

HOWARD A. HENRY

1
15:29:57 2 maintenance. We contact -- we contact
15:29:59 3 maintenance for them to take care of
15:30:01 4 the equipment. We tell them what's
15:30:03 5 wrong and they take care of it, but
15:30:05 6 we're not responsible for no
15:30:06 7 maintenance plan and no all these
15:30:09 8 plans, that maintenance takes care of
15:30:11 9 all the planning. I told him that.
15:30:17 10

15:30:18 11 And you know, when I got --
15:30:19 12 when I got to this midyear review I
15:30:21 13 explained to him, I said you didn't
15:30:23 14 really make it clear, he said you
15:30:24 15 didn't really ask. I said well I
15:30:27 16 didn't understand and I asked you, hey,
15:30:28 17 you didn't make this clear to me. So
15:30:30 18 that's why I said I can't sign this
15:30:33 19 because this isn't going to reflect
15:30:35 20 exactly how you disseminated the
15:30:38 21 information.

15:30:40 22 Q. So you had no knowledge,
15:30:41 23 you're telling me you had no knowledge
15:30:44 24 that your supervisor, Mr. Espejo, had
15:30:46 25 asked you to meet certain, this June
25th, 2004 target date with respect to

1

HOWARD A. HENRY

15:30:48 2

the maintenance plans, is that what
you're telling me?

15:30:50 3

15:30:50 4

A. All -- I mean this June 25th
date, no, no.

15:30:56 5

15:30:58 6

Q. Never heard of that before?

15:30:59 7

15:31:02 8

A. I can't say definitively. I
mean I don't recall.

15:31:02 9

15:31:04 10

15:31:06 11

15:31:08 12

Q. Did you know -- did you know
that you had to -- okay, so you don't
recall. You don't recall this June
25th, 2004 date?

15:31:09 13

15:31:10 14

A. No.

15:31:15 15

15:31:24 16

15:31:27 17

15:31:29 18

15:31:31 19

Q. Okay. A few bullet points
down, "SOP review timeline," it says "3
SOPs completed on time, 8 SOPs not
completed on time." Is that accurate,
or was that accurate as of this date?

15:31:35 20

15:31:37 21

A. No.

Q. Why do you not think that
was accurate?

15:31:37 22

15:31:39 23

15:31:42 24

15:31:44 25

A. He asked me to come up with
an SOP timeline. I explained to him
these SOPs the way they're written
cannot be conducted the way you'd like

HOWARD A. HENRY

1
15:31:46 2 them to be conducted. He was new to
15:31:48 3 the area and I was trying to explain to
15:31:51 4 him what it takes to make sure these
15:31:54 5 SOPs were accurate and correct. So for
15:31:55 6 him to say completed on time, not
15:31:57 7 completed on time is not necessarily --
15:31:59 8 is not true, it's not a hundred percent
15:32:02 9 true.

15:32:07 10 Q. So you had a difference of
15:32:09 11 opinion on this, I suppose?

15:32:10 12 A. That's right. The whole
15:32:11 13 document we had a difference of
15:32:12 14 opinion.

15:32:12 15 Q. Going down to the bottom,
15:32:14 16 "Areas of improvement," first bullet,
15:32:19 17 "Improvement on follow-up on pending
15:32:21 18 issues. Manage completion of tasks to
15:32:23 19 meet due dates." Did Mr. Espejo
15:32:27 20 discuss that with you?

15:32:28 21 A. I can't recall.

15:32:40 22 Q. How about the final bullet
15:32:42 23 point, "Developing and implementing
15:32:44 24 project timelines," do you remember any
15:32:46 25 discussion about that?

1

HOWARD A. HENRY

15:32:47 2

A. I remember we discussed about Microsoft Project and I said I would take it, I took the course.

15:32:48 3

15:32:50 4

15:32:52 5

15:32:53 6

Q. Do you remember anything else that you discussed with Mr. Espejo about this?

15:32:55 7

15:32:56 8

15:32:58 9

15:32:59 10

A. I told him that I couldn't sign the document because I didn't agree with it.

15:33:00 11

15:33:02 12

Q. What was his response?

A. Okay.

13

14

(Henry Exhibit 23 for identification, Bates stamped D 00170 through 173.)

15:33:33 15

15:33:33 16

15:33:34 17

15:34:15 18

15:34:18 19

15:34:19 20

15:34:22 21

Q. I pass you a document that's been marked Henry Exhibit 23. This document is a performance appraisal, it looks like it's covering the time January 1, 2004 through December 31st, 2004; is that correct?

15:34:25 22

15:34:26 23

15:34:27 24

15:34:31 25

A. Yes.

Q. And this was prepared by your supervisor, Andrew Espejo; is that correct?

1

HOWARD A. HENRY

15:34:31 2

A. Yes.

15:34:32 3

Q. Did you meet with Mr.

15:34:34 4

Espejo --

15:34:35 5

A. Yes.

15:34:35 6

Q. -- in connection with this
performance review?

15:34:36 7

15:34:38 8

Were you provided a copy of
the performance review during that
meeting?

15:34:39 9

15:34:40 10

15:34:41 11

A. I don't recall.

15:34:42 12

15:34:46 13

Q. Did you discuss -- did Mr.
Espejo read this performance review to
you?

15:34:48 14

15:34:48 15

A. I think so.

15:34:52 16

15:34:55 17

Q. Did you have any discussion
with him about any of the information
provided in this performance review?

15:34:58 18

15:35:00 19

15:35:06 20

A. Can you repeat that for me,
I'm sorry. I was just focusing on
something.

15:35:09 21

15:35:09 22

15:35:10 23

Q. Did you have any discussions
with him about any of the information
provided in this performance review?

15:35:12 24

15:35:14 25

A. Yes.

HOWARD A. HENRY

15:35:15 2

Q. What did you discuss?

15:35:17 3

15:35:20 4

A. I said that he didn't capture a key element, something that occurred during that year.

15:35:23 5

15:35:25 6

Q. And what was that?

15:35:26 7

15:35:31 8

15:35:33 9

A. The continuous coater single pass project leadership that I provided that year.

15:35:37 10

15:35:38 11

Q. And what was that?

15:35:42 12

15:35:46 13

15:35:54 14

15:35:56 15

15:35:59 16

15:36:00 17

15:36:04 18

15:36:06 19

15:36:09 20

15:36:12 21

15:36:16 22

15:36:18 23

15:36:20 24

15:36:23 25

A. They couldn't -- they had a tremendous amount of trouble getting Centrum to -- how shall I say? -- to be coated in a single pass application. They had tremendous amount of trouble. They couldn't get it done for approximately nine or ten months. Our technical service department tried and they had vendors try and no one can do it. And corporate was looking specifically at us because part of the reason why they approved this instrument is to have it perform this particular function, and I was instrumental on making that happen.

HOWARD A. HENRY

Q. And you felt it should have been reflected or stated in this review?

A. Yes.

Q. And it wasn't?

A. Not to the level that it needed to be, no.

Q. Do you recall Mr. Espejo discussing anything about you needing to improve setting objective dates for commitments and meeting those commitments on a consistent basis?

A. Yes.

Q. What did he tell you about that?

A. He just said that, you know, as far as he's concerned that, you know, I need to firm up certain dates, and I told him, I said when you collaborate with people there are a lot of issues that occur for one not to -- to have -- to afford an extension, and he said, you're right, I have extensions myself and, you know, but I

1

HOWARD A. HENRY

15:37:29 2

would like for you -- do your best to
firm up certain dates. I said I'll do
my best.

15:37:31 3

15:37:34 4

15:37:35 5

15:37:36 6

Q. Did you have any
disagreement with this review?

15:37:37 7

A. Yes.

15:37:37 8

15:37:39 9

Q. What were your
disagreements?

15:37:40 10

15:37:41 11

15:37:43 12

A. He didn't capture a lot of
the things that I did during the course
of that year.

15:37:44 13

15:37:46 14

Q. Anything else you disagreed
about?

15:37:48 15

15:37:50 16

15:37:53 17

15:37:57 18

15:37:59 19

15:38:01 20

15:38:03 21

15:38:09 22

15:38:11 23

15:38:13 24

15:38:15 25

A. I mean I told him that I
couldn't sign it because, you know, I
just didn't agree. You know, I felt
that the work that I did was critical
to the organization and that it
warranted a five because if it didn't
get done we couldn't coat Centrum at
the rate, at the speed that we were
coating Centrum and probably we would
be held, you know, accountable for that
as a site. So I was key to making sure

HOWARD A. HENRY

that that occurred, that it happened.

Q. Is there anything else you recall about your conversation with Mr. Espejo in connection with this review?

A. Not at this time.

Q. Okay.

(Henry Exhibit 24 for identification, Bates stamped 3765 through 3768.)

Q. Mr. Henry, I've handed you a document that's marked Henry Exhibit 24. Have you seen this document before?

A. Yes.

Q. What is it?

A. It's some feedback that I got, the performance, 2005 performance feedback.

Q. And who provided you this feedback?

A. Max Katz.

Q. Who was Max Katz, can you tell me again?

A. He was the person I reported

1

HOWARD A. HENRY

15:40:07 2

to at the time.

15:40:08 3

15:40:10 4

15:40:12 5

15:40:14 6

15:40:19 7

15:40:20 8

15:40:20 9

15:40:31 10

15:40:35 11

15:40:38 12

15:40:40 13

15:40:42 14

15:40:47 15

15:40:50 16

15:40:51 17

15:41:02 18

15:41:03 19

15:41:04 20

15:41:06 21

15:41:08 22

15:41:08 23

15:41:11 24

15:41:11 25

Q. So at this point your reporting line had changed, you were no longer reporting to Mr. Espejo, but instead at this time, May 31st, 2005, you're reporting to Mr. Katz?

A. Right.

Q. How long had you been reporting to Mr. Katz as of this date?

A. A full five -- according to this, a full five months.

Q. Okay. So that's the January 3, 2005 through June 14th, 2005 review period?

A. Rights.

Q. Did you meet with Mr. Katz in connection with this review?

A. Yes.

Q. Did he give you a copy of the review at the meeting?

A. I don't recall.

Q. Did he read the review to you?

A. I believe so.

1

HOWARD A. HENRY

15:41:14 2

Q. Did he give you a copy at the end of the meeting?

15:41:15 3

15:41:16 4

A. I don't recall. He may have. I don't remember.

15:41:21 5

15:41:22 6

Q. Well I can represent to you that your attorney produced this document to us.

15:41:26 7

15:41:29 8

15:41:30 9

A. Right.

15:41:31 10

15:41:32 11

Q. If that --

15:41:34 12

15:41:37 13

A. He may not have given it to me at the meeting, he may have given it to me later on. I don't remember the exact way I got it.

15:41:39 14

15:41:41 15

15:41:45 16

Q. Okay. This review form appears a little different than the other ones we have reviewed today.

15:41:47 17

15:41:49 18

A. Yes.

15:41:50 19

15:41:56 20

15:41:58 21

Q. Do you have any idea -- do you know why this performance feedback document is slightly different than the others?

15:41:59 22

15:41:59 23

15:42:01 24

A. I guess they just changed the structure of it.

15:42:02 25

Q. Okay. What was your general

1

HOWARD A. HENRY

15:42:11 2

impression of this feedback contained
in this performance feedback document?

15:42:12 3

15:42:15 4

15:42:19 5

15:42:20 6

15:42:22 7

A. It just tried -- it tried to
paint me as a person who didn't do
things in a timely fashion, didn't do
things on time.

15:42:25 8

15:42:28 9

Q. And you believed that was
not accurate?

15:42:29 10

15:42:31 11

A. Not a hundred percent.

15:42:32 12

15:42:34 13

Q. Not a hundred percent. So
you believe it's somewhat accurate?

15:42:37 14

15:42:39 15

15:42:40 16

A. I mean I wouldn't say -- I
don't think it was accurate. That's
why I didn't sign it.

15:42:42 17

15:42:42 18

Q. Well let's go through item
by item.

15:42:43 19

15:42:49 20

15:42:50 21

15:42:54 22

15:42:59 23

15:43:01 24

15:43:03 25

A. Sure.

Q. The first item, "Provide the
necessary support to the conversion
cost reduction project to ensure an 8
percent reduction." The "Behind pace
needs improvement" box is checked
there. And there's a comment "Provide
a project timeline for improvement

1

HOWARD A. HENRY

15:43:08 2

15:43:10 3

15:43:15 4

15:43:17 5

15:43:19 6

15:43:19 7

15:43:29 8

15:43:34 9

15:43:36 10

15:43:40 11

15:43:45 12

15:43:45 13

15:43:46 14

15:43:56 15

15:44:00 16

15:44:04 17

15:44:07 18

15:44:10 19

15:44:15 20

15:44:18 21

15:44:20 22

15:44:21 23

15:44:22 24

15:44:23 25

projects to manager by July 29th, 2005." Did you do that, did you submit the project timeline for improvement projects by July 29th, 2005?

A. Yes.

Q. Okay. Manufacture variances in the left-hand column, the review indicates that you had unacceptable results and that corrective action is required. Do you remember discussing this with Mr. Katz?

A. No.

Q. A few lines down under the box "Quality mindset," to the far right there's the comment "PMO turnaround as discussed earlier on March 30th, 2005. PMOs from November and December were not signed off on until March." Is that accurate, that the PMOs from November and December were not signed off on until March?

A. Right.

Q. And would you agree with the statement that this put the department

1

HOWARD A. HENRY

15:44:25 2

at serious compliance risk with
conformance standard 12-4-3-1?

15:44:28 3

15:44:33 4

15:44:35 5

15:44:37 6

A. I didn't understand that
statement a hundred percent at the
time.

15:44:37 7

15:44:41 8

15:44:42 9

15:44:45 10

15:44:48 11

15:44:49 12

15:44:51 13

15:44:54 14

15:44:56 15

15:44:59 16

15:45:01 17

15:45:03 18

15:45:05 19

15:45:07 20

15:45:09 21

15:45:12 22

15:45:14 23

15:45:16 24

15:45:18 25

Q. What did you think it meant
at the time, or now?

A. Well he explained to me that
PMOs not being signed off put the
department at compliance risk and I
said well part of the reason why
they're not signed off is because I'm
given them late or they're not given to
me in my box at a certain time, and I
find errors on the documents that need
to be reviewed with the individual who
gave them to me, and sometimes these
people are not available. He said
okay, what we're going to do, we're
going to create a spreadsheet so that
we can track when you get them, who
gives them to you and when they're
signed. I said okay.

Because I told him in the

HOWARD A. HENRY

past this is something that occurs, has occurred in the past and that usually, you know, to help maintenance I wouldn't say anything, but I would review them as quickly as I could so that we could, you know, have the documents back to them.

So in essence, I created the spreadsheet and we were able to track it better.

Q. A couple of boxes down, "Weekly zone checklists were not submitted in a timely fashion. No follow-up on missing zone checklists, resulting in ERF." What does ERF stand for?

A. Error -- error reduction form or error recording form, I think.

Q. Is that accurate, that the weekly zone checklists were not being submitted in a timely fashion?

A. Right.

Q. That is accurate?

A. Yes.

1

HOWARD A. HENRY

16:21:29 2

don't know how soon thereafter, maybe
Newton Paul. That's who I can recall
at this point.

16:21:32 3

16:21:39 4

16:21:40 5

16:21:54 6

16:21:58 7

Q. So what happened at your --
you had a July 6th, 2005 PIP review
meeting, correct?

16:21:59 8

16:22:00 9

A. I don't know the date.

16:22:12 10

16:22:14 11

Q. But you did have a meeting,
a review meeting, correct?

16:22:15 12

16:22:16 13

A. Yes.

16:22:18 14

16:22:22 15

16:22:23 16

16:22:25 17

16:22:27 18

Q. Now you say the second, you
mean the first was the delivery of the
document?

16:22:27 19

16:22:28 20

A. First the delivery and the
second one was a follow-up one.

16:22:39 21

16:22:40 22

16:22:41 23

16:22:42 24

16:22:48 25

Q. And what was discussed at
the follow-up meeting?

A. To the best of my
recollection, we discussed about the
zone checklist, whether I got them to

1

HOWARD A. HENRY

16:22:50 2

Andrew in a specific time, I told them

16:22:53 3

yes. Max said he would set up a

16:22:55 4

meeting between maintenance about how

16:22:57 5

to best handle the PMOs because he

16:22:59 6

wanted to stamp them and I told him you

16:23:02 7

can't stamp an official company

16:23:04 8

document like that without the first

16:23:05 9

approval of maintenance. He said he

16:23:07 10

would -- he would make up -- he would

16:23:09 11

make sure he would set up a meeting.

16:23:13 12

And it was a very brief

16:23:14 13

meeting. I expressed again that this

16:23:17 14

PIP was unwarranted.

16:23:20 15

And that was about all I

16:23:24 16

could remember at this time.

16:23:25 17

Q. Did Ms. Marasco tell you

16:23:30 18

that the PIP was not a disciplinary

16:23:36 19

tool, but instead a tool for corrective

16:23:40 20

action?

16:23:42 21

A. She did say that.

16:23:44 22

Q. When was -- and then you had

16:23:51 23

another meeting, correct, regarding the

16:23:54 24

PIP, in this PIP review process?

16:23:57 25

A. Yes.

HOWARD A. HENRY

Q. And who was at the next meeting?

A. I believe that was the final meeting. I could be wrong, but I think that was Andrew Espejo, Max Katz and Stacey Marasco.

Q. Okay. And what happened at that meeting?

A. Basically they said that they wanted to get my opinion as to what an engineer should do, what's an engineer -- what is -- what is an engineer's role and what do I think an engineer's role should be within the organization.

And I asked them, I'm -- you know, I'm confused, I don't know what this has to do with the PIP. And he said, well, basically, I just want to get your understanding as to what you feel an engineer's role should be.

And we discussed opportunities, you know, opportunities for engineers and the function of an

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HOWARD A. HENRY

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16:25:00 4

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16:25:05 6

16:25:07 7

16:25:10 8

16:25:12 9

16:25:15 10

16:25:17 11

16:25:19 12

16:25:21 13

16:25:25 14

16:25:28 15

16:25:31 16

16:25:33 17

16:25:43 18

16:25:44 19

16:25:46 20

16:25:48 21

16:25:51 22

16:25:53 23

16:25:56 24

16:25:59 25

engineer and the role of an engineer, and I discussed with them that, you know, I wished that they would have come to me and told me that these are some of the things they were looking for in their management style and it wouldn't have to resort to something like this.

And Max insisted that he tried to come to me, but I told him, I said I don't recall you coming to me in an amicable way, you know, I recall you coming to me in front of colleagues and kind of expressing what you felt and I had to ask you to let's talk in the office about certain things.

But there was a situation where I mentioned, you know, I wish these gentlemen would come to me man to man, because they were men, Stacey was offended by it and I apologized for it, I said it wasn't offensive to you, you being a woman, but I apologize if I upset you. And I'll say person to

1

HOWARD A. HENRY

16:26:02 2

person from now on.

16:26:04 3

16:26:05 4

16:26:07 5

Q. Were you told at this meeting that you'd satisfied the requirements of the PIP?

16:26:07 6

A. Yes.

16:26:08 7

16:26:09 8

Q. Were you told that you'd be removed from the PIP?

16:26:10 9

A. Yes.

16:26:10 10

16:26:21 11

Q. Were you told that -- do you remember being told anything else?

16:26:22 12

16:26:25 13

16:26:28 14

16:26:33 15

16:26:36 16

A. That I'd have to sustain a certain level of compliance, if you will, certain level of performance or I can be placed back on it, and it can lead to termination.

17

16:27:15 18

(Henry Exhibit 29 for identification, Bates stamped 3727.)

16:27:15 19

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16:27:25 22

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16:27:29 24

16:27:29 25

Q. Mr. Henry, I've put in front of you a document that's been marked Henry Exhibit 29. It appears to be a letter from Mr. Katz dated July 28th, 2005. Do you recall receiving this letter?

A. Yes.

1

HOWARD A. HENRY

16:27:30 2

Q. And this letter notified you that you'd been removed from the PIP?

16:27:31 3

16:27:33 4

A. Yes.

16:27:34 5

16:27:44 6

16:27:47 7

16:27:53 8

Q. Did you have any further discussions with Mr. Katz, Mr. Espejo or Mr. -- or Ms. Marasco regarding the PIP?

16:27:53 9

A. Not that I can recall.

16:27:54 10

16:27:55 11

16:27:57 12

Q. Did you have any discussions with anyone else other than your counsel regarding the PIP?

16:27:59 13

16:28:03 14

A. I mentioned two individuals before.

16:28:04 15

16:28:06 16

Q. Right. Other than those individuals?

16:28:06 17

16:28:07 18

A. Not that I can recall.

16:28:12 19

16:28:16 20

Q. Okay.

16:28:20 21

A. If you wouldn't mind, may I use the bathroom, is that all right?

16:28:21 22

MR. McQUADE: Sure, we'll take a break.

16:28:23 23

16:28:23 24

THE VIDEO OPERATOR: Going off the record at 4:28.

16:28:25 25

(A recess was taken.)

1 HOWARD A. HENRY

16:39:57 2 THE VIDEO OPERATOR: Returning
16:40:07 3 to the record at 4:40 from 4:28.

4 (Henry Exhibit 30 for
5 identification, Bates stamped D 00584
16:40:15 6 through 586.)

16:40:15 7 Q. Mr. Henry, I put in front of
16:40:16 8 you a document that we have marked
16:40:18 9 Henry Exhibit 30. Is this a document
16:40:26 10 you've seen before?

16:40:28 11 A. Yes.

16:40:28 12 Q. If you'd look at the final
16:40:35 13 page it's signed by a Dr. Henson.

16:40:41 14 A. Yes.

16:40:43 15 Q. And it indicates his type
16:40:46 16 of -- immediately to the right of his
16:40:48 17 signature it indicates his type of
16:40:50 18 practice is internal medicine. Who is
16:40:55 19 Dr. Henson?

16:41:00 20 A. He's a medical doctor that
16:41:03 21 I --

16:41:03 22 Q. What type of doctor is he?

16:41:05 23 A. I guess internal medicine.
16:41:07 24 I thought he did general. I didn't
16:41:09 25 know he specifically did internal

1

HOWARD A. HENRY

16:41:10 2

medicine, so based on this.

16:41:12 3

16:41:14 4

Q. Is he a general practitioner document?

16:41:15 5

A. Yes, primary care.

16:41:16 6

16:41:18 7

Q. And why did you see Mr. Henson?

16:41:19 8

16:41:20 9

16:41:30 10

16:41:34 11

16:41:37 12

16:41:39 13

16:41:46 14

16:41:48 15

16:41:53 16

16:41:56 17

16:41:58 18

16:42:00 19

16:42:02 20

16:42:04 21

16:42:08 22

16:42:13 23

16:42:19 24

16:42:22 25

A. Well, in the past I was complaining of chest pains, stress, and I was going through this at the job and I had to -- I was really getting sick from it, really getting sick from it.

Q. How were you getting sick?

A. I suffered from depression, insomnia, I didn't have any drive to do anything. I used to like to exercise and workout. I didn't have any desire for that anymore.

Q. When did these symptoms first appear?

A. They started to appear for the most part in the early -- around 2004, I would say, you know --

Q. 2004 what symptoms did you have? Were you having trouble sleeping?

1

HOWARD A. HENRY

16:42:24 2

16:42:27 3

16:42:30 4

16:42:34 5

16:42:37 6

16:42:39 7

16:42:39 8

16:42:43 9

16:42:44 10

16:42:46 11

16:42:48 12

16:42:50 13

16:42:52 14

16:42:57 15

16:42:59 16

16:43:02 17

16:43:04 18

16:43:06 19

16:43:07 20

16:43:17 21

16:43:20 22

16:43:20 23

16:43:22 24

16:43:26 25

A. That. I had irritable bowel syndrome. I couldn't hold anything down for awhile at certain points, severe insomnia.

Q. During what time period was this?

A. Various times throughout this whole process.

Q. Can you give me dates or at least approximations?

A. I know that -- I know that I was having heart palpitations and I went to see him I think in July of 2004. My heart was in -- it just -- it felt like it was beating irregularly, it didn't feel right. I ignored it for awhile. And I finally went to go see him about it.

Q. Okay. So in July, or shall we say in 2004 is it fair to say that --

A. That's when things started to physically take its toll.

Q. Were there any other

1

HOWARD A. HENRY

16:43:28 2

physical symptoms that you had?

16:43:37 3

16:43:42 4

16:43:46 5

16:43:54 6

16:43:58 7

16:44:00 8

16:44:03 9

16:44:03 10

16:44:04 11

16:44:05 12

16:44:07 13

16:44:11 14

16:44:12 15

16:44:14 16

16:44:23 17

16:44:25 18

16:44:26 19

16:44:27 20

16:44:28 21

16:44:29 22

16:44:31 23

16:44:34 24

16:44:34 25

A. Extreme fatigue, I didn't eat much, I didn't really eat that much. I mean, and I really had, like I told you, just nervous, nervous stomach in terms of my bowels and everything.

That's about it I could remember at this time.

Q. This was in 2004?

A. Yes.

Q. Did it prevent you from performing any activities you normally --

A. I didn't work out, I didn't do things with my wife that we normally would do.

Q. You continued showing up to work?

A. Best I could.

Q. In 2004?

A. Best I could.

Q. I think you told me before you were working long hours?

A. Yes.

Q. Working weekends?

1

HOWARD A. HENRY

16:44:35 2

A. At times.

16:44:37 3

16:44:39 4

Q. And I think you told me in 2004 you believed that you should have received a five rating?

16:44:43 5

16:44:46 6

A. In 2004, yes.

16:44:50 7

16:44:53 8

16:44:55 9

Q. So these symptoms you were experiencing didn't affect your work performance in any way, did they?

16:44:57 10

16:45:02 11

16:45:09 12

16:45:13 13

A. It affected, you know, what I felt was my comfort level and my ability but I worked through them, I worked through it.

16:45:14 14

16:45:18 15

16:45:21 16

Q. 2005, what type of symptoms were you experiencing?

16:45:25 17

16:45:27 18

16:45:29 19

16:45:31 20

16:45:34 21

A. Just real depressed, you know, I just felt like there was nothing -- no matter what I did it wasn't good -- it wouldn't be good enough. So it just got real, real bad after that.

16:45:37 22

16:45:39 23

16:45:42 24

16:45:43 25

Q. Anything else in 2005?

A. Everything just escalated.

Everything just got --

Q. When did you -- when was

1

HOWARD A. HENRY

16:45:45 2

your last day at work at Wyeth?

16:45:48 3

A. August 2005.

16:45:53 4

Q. And --

16:45:54 5

16:45:56 6

A. I believe it was the 5th of August actual physical work.

16:45:57 7

16:45:59 8

Q. At that time you submitted a request for disability benefits?

16:46:03 9

A. Right, for leave.

16:46:10 10

16:46:12 11

Q. And why did you want to take a leave?

16:46:12 12

16:46:14 13

A. Because things had taken its toll.

16:46:14 14

16:46:16 15

Q. What had taken its toll?

16:46:17 16

A. What I had been going through at Wyeth.

16:46:18 17

16:46:21 18

Q. And what was the toll? Can you be more specific?

16:46:23 19

16:46:26 20

16:46:29 21

16:46:32 22

16:46:35 23

16:46:37 24

16:46:40 25

A. The overall physical condition -- condition I was in. I mean I didn't -- I just was severely depressed. I had irritable bowel syndrome. My heart at sometimes I felt like it was racing, you know, uncontrollably at times. I mean I

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HOWARD A. HENRY

16:46:44 2

16:46:46 3

16:46:48 4

16:46:50 5

16:46:52 6

16:46:54 7

16:46:58 8

16:47:00 9

16:47:00 10

16:47:04 11

16:47:06 12

16:47:08 13

16:47:10 14

16:47:11 15

16:47:14 16

16:47:16 17

16:47:19 18

16:47:20 19

16:47:22 20

16:47:23 21

16:47:30 22

16:47:32 23

16:47:33 24

16:47:36 25

would sit at my desk and my palms would get all sweaty, I would just break out in sweats and chills. I mean there was -- there was a lot of things that started happening to me that didn't happen before.

Q. Is there anything else, any other symptoms?

A. I had severe anxiety, like it was like I wanted to do everything perfect and I -- and I didn't want to fail at anything, so I got hyper just in terms of just preparing documents and getting this done and trying to do -- being three places at one time and I couldn't keep up with that pace and it took its toll.

Q. So you decided to take a disability leave?

A. Well, it was recommended by, you know, the individual, the doctor was talking to me and the health care provider was talking to me, I told them what I was going through. I explained

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HOWARD A. HENRY

16:47:37 2

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16:47:41 4

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16:47:53 9

16:47:56 10

16:48:01 11

16:48:03 12

16:48:03 13

16:48:06 14

16:48:14 15

16:48:16 16

16:48:18 17

16:48:19 18

16:48:22 19

16:48:25 20

16:48:26 21

16:48:28 22

16:48:30 23

16:48:32 24

16:48:34 25

to them what I was going through. I was seeing a psychotherapist too and based on what I was going through they were like you need to take some time off, see, you know, how -- just to get to a point where you feel you can function the way you want to function. So that was the decision that was made.

Q. Who were the medical and care providers that you discussed this with?

A. Dr. Elliott Henson and Robert Hickman. He's a psychotherapist.

Q. When did you begin seeing Hickman, Dr. Hickman?

A. For this particular problem I want to say December-ish 2004, January 2005.

Q. How long had you been seeing Dr. Henson?

A. For this particular problem?

Q. No, in general.

A. He'd been my doctor ever since '94, '95 I think.

1

HOWARD A. HENRY

16:48:36 2

Q. And had you seen Dr. Hickman before?

16:48:39 3

16:48:39 4

A. Yes.

16:48:42 5

Q. Okay. When was that?

16:48:43 6

16:48:50 7

A. That was in 2000 -- for a different reason, obviously, it wasn't for the same reason. So it was for something different.

16:48:52 8

16:48:54 9

16:48:59 10

Q. When was that?

16:48:59 11

A. That was in 2003.

16:49:03 12

16:49:05 13

Q. Why did you see Dr. Hickman before?

16:49:05 14

16:49:08 15

A. Marriage counseling.

16:49:13 16

16:49:15 17

Q. Did you suggest to either of these doctors that you should take a leave of absence?

16:49:17 18

16:49:18 19

16:49:20 20

16:49:23 21

16:49:25 22

A. I can't say I suggested it. I could say I mentioned to them how I was feeling and based on that the conclusion was drawn that it was time to take some time.

16:49:59 23

16:50:00 24

16:50:02 25

Q. If you'd look at Exhibit 30 under section 4 it says "State the approximate date the condition

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commenced and the probable duration of the condition and also the problem duration of the patient's present incapacity if different." It indicates that the date it commenced was February 18th, 2005, earliest reportable symptoms. This would suggest to me that you told Dr. Henson that symptoms first appeared on February 18th, 2005.

A. I didn't -- I didn't tell him that.

Q. Do you know how he came to this February 18th, 2005 date?

A. No.

Q. Do you know whether Dr. Henson is qualified to diagnose a patient with something like anxiety disorder?

A. He's a medical doctor, so I would -- I would say that he was qualified.

Q. Okay.

(Henry Exhibit 31 for identification, Bates stamped D 00582 and 583.)